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# Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

## Report of the Secretary-General

*Summary*

The present report is prepared in response to paragraph 107 of General Assembly resolution 61/105. It contains information on steps and initiatives taken or recommended by the international community to improve the conservation and management of fishery resources and other marine living resources with a view to achieving sustainable fisheries and protecting marine ecosystems and biodiversity.

The report is based on information provided by States; relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations; other appropriate organs, organizations and programmes of the United Nations system; subregional and regional organizations; and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations.

The report emphasizes the importance of the full implementation by States of all international fishery instruments, whether legally binding or voluntary, which promote the conservation and management and sustainable use of marine living resources. It also emphasizes the importance of cooperation among States, directly or

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through subregional and regional fisheries management organizations or arrangements, to address unsustainable fishing practices and promote sustainable fisheries in areas beyond national jurisdiction, including through implementing their responsibilities as flag States improving governance of such organizations or arrangements and cooperating in the establishment of new organizations or arrangements where none exist.

In accordance with the Terms of Reference of the United Nations Fish Stocks Agreement Assistance Fund, a brief report on the status and activities of the Fund is also included.

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## Abbreviations

| | |
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| APFIC | Asia-Pacific Fishery Commission |
| BCLME | Benguela Current Large Marine Ecosystem Programme |
| CCAMLR | Commission for the Conservation of Antarctic Marine Living Resources |
| CCSBT | Commission for the Conservation of Southern Bluefin Tuna |
| CPPS | Permanent Commission for the South Pacific |
| EC | European Community |
| EU | European Union |
| FAO | Food and Agriculture Organization of the United Nations |
| FAO Compliance Agreement | Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas |
| GCLME | Guinea Current Large Marine Ecosystem |
| GEF | Global Environment Facility |
| GFCM | General Fisheries Commission for the Mediterranean |
| GPA | Global Programme of Action for the Protection of the Marine Environment from Land-based Activities |
| IATTC | Inter-American Tropical Tuna Commission |
| ICCAT | International Commission for the Conservation of Atlantic Tunas |
| IGCC | Interim Guinea Current Commission |
| IMO | International Maritime Organization |
| IOC | Intergovernmental Oceanographic Commission |
| IOTC | Indian Ocean Tuna Commission |
| IPHC | International Pacific Halibut Commission |
| IPOA-Capacity | International Plan of Action for the Management of Fishing Capacity |

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| IPOA-IUU | International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing |
| IPOA-Seabirds | International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries |
| IPOA-Sharks | International Plan of Action for the Conservation and Management of Sharks |
| MCS | Monitoring, control and surveillance |
| MARPOL 73/78 | International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 |
| MSC | Marine Stewardship Council |
| NAFO | North-West Atlantic Fisheries Organization |
| NOAA | National Oceanic and Atmospheric Administration |
| NASCO | North Atlantic Salmon Conservation Organization |
| NEAFC | North-East Atlantic Fisheries Commission |
| OLDEPESCA | Latin American Organization for Fisheries Development |
| RFMO/A | Regional fisheries management organization or arrangement |
| SEAFDEC | South-East Asian Fisheries Development Centre |
| SEAFO | South-East Atlantic Fisheries Organization |
| SIDS | Small Island Developing States |
| SIOFA | South Indian Ocean Fisheries Agreement |
| UNCLOS | United Nations Convention on the Law of the Sea |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| VMS | Vessel monitoring system |
| WCPFC | Western and Central Pacific Fisheries Commission |
| WTO | World Trade Organization |
| WWF | World Wide Fund for Nature |
| YSLME | Yellow Sea Large Marine Ecosystem Project |

# I. Introduction

1. In its resolution 61/105, the General Assembly reaffirmed the importance of achieving sustainable fisheries through the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas, and the obligations of States to cooperate to that end, in accordance with international law, as reflected in the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and related fisheries instruments.

2. The General Assembly also called upon all States that had not done so to become parties to UNCLOS, which sets out the legal framework within which all activities in the oceans and seas must be carried out, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Agreement)[1] and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement).[2]

3. In addition, the General Assembly urged the international community to address a broad range of issues that had a bearing on the conservation and management of international fisheries, including issues currently affecting the governance of the world's fisheries. It therefore requested the Secretary-General to bring resolution 61/105 to the attention of all members of the international community and to invite them to provide information on measures they had taken to ensure its implementation.

4. Accordingly, the Secretary-General circulated a questionnaire to States, specialized agencies, relevant intergovernmental organizations, programmes and bodies of the United Nations system, RFMOs and relevant non-governmental organizations, soliciting their input on issues raised in the resolution. The present report is based upon replies received by the Secretary-General. He wishes to express his appreciation for all the submissions (see list of respondents in annex I to the present report).

# II. Achieving sustainable fisheries

5. Fishery resources contribute to food security, poverty alleviation and the economy and well-being of many countries worldwide. In 2004, capture fisheries and aquaculture provided more than 2.6 billion people with at least 20 per cent of their animal protein intake and employed an estimated 41 million fishers and fish farmers.[3] Failing to maintain the exploitation of fishery resources within sustainable limits therefore would have an impact on the role of fisheries in economic development, poverty alleviation and human health.

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[1] United Nations, *Treaty Series*, vol. 2167, No. 37924.

[2] *International Fisheries Instruments with Index* (United Nations publication, Sales No.E.98.V.11), sect. II.

[3] *The State of World Fisheries and Aquaculture 2006* (Rome, FAO Fisheries and Aquaculture Department, 2007). Global capture fisheries production reached 95 million tons in 2004, with an estimated first-sale value of $84.9 billion.

6. The Food and Agriculture Organization of the United Nations (FAO) estimated that more than 75 per cent of world fish stocks were already fully exploited or overexploited, confirming earlier observations that the maximum wild capture fishery potential from the world's oceans had probably been reached. Those findings also reinforced calls for more cautious and effective fisheries management to rebuild depleted stocks and prevent the decline of stocks being exploited at or close to their maximum potential.[4] The situation was more critical for some highly migratory, straddling and other fishery resources that were exploited solely or partially in the high seas, in particular, straddling stocks and highly migratory oceanic sharks.[5]

7. As a first step to achieving sustainable fisheries, it is of the utmost importance that States become parties to all relevant international fishery instruments and implement them fully. States and other members of the international community are also encouraged to give due priority to the application of the Johannesburg Plan of Implementation of the World Summit on Sustainable Development in relation to achieving sustainable fisheries, which committed the international community, inter alia, to maintaining or restoring fish stocks to levels that can produce the maximum sustainable yield with the aim of achieving sustainable fisheries by 2015.

8. Moreover, States and regional fisheries management organizations and arrangements (RFMO/As), should apply widely the precautionary approach and an ecosystem approach to the conservation, management and exploitation of fish stocks, including discrete high seas fish stocks, and in adopting and implementing conservation and management measures that address, inter alia, by-catch, pollution, overfishing, destructive fishing practices and protection of habitats of specific concern, taking into account existing guidelines developed by FAO.[6]

9. States and RFMO/As are also encouraged to increase reliance on scientific advice in developing conservation and management measures and increase efforts to promote science in fisheries conservation and management. It is therefore important that States and RFMO/As collect and report to FAO catch and effort data and other fishery-related information, in a complete, accurate and timely way, to support scientific and management processes. In that regard, emphasis should be given to implementing the FAO Strategy for Improving Information on Status and Trends of Capture Fisheries as a framework for the improvement and understanding of fishery

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[4] FAO estimated that in 2005 approximately 23 per cent of fish stocks were underexploited or moderately exploited, 52 per cent were fully exploited and therefore producing catches that were at or close to their maximum sustainable limits, and 25 per cent were either overexploited, depleted or recovering from depletion and thus yielding less than their maximum potential owing to excess fishing pressure exerted in the past. Most of the stocks of the top 10 species, accounting for approximately 30 per cent of the world capture fisheries production, were fully exploited or overexploited and cannot be expected to produce major increases in catches.

[5] FAO reported that, as compared to highly migratory species, nearly two thirds of straddling stocks and other high seas fishery resources were classified as overexploited or depleted; more than half of highly migratory oceanic sharks were also listed as overexploited or depleted.

[6] *FAO Technical Guidelines for Responsible Fisheries* No. 2 (*Precautionary approach to capture fisheries and species introductions*), (Rome, 1996), and No. 4, Suppl. 2 (*Fisheries management: The ecosystem approach to fisheries*), (Rome, 2003).

status and trends,[7] and cooperating with FAO in the implementation and further development of the Fishery Resources Monitoring System initiative.

10. Furthermore, attention should be given to the need to ensure proper conservation and management and sustainable use of sharks, including through implementation of the International Plan of Action (IPOA) for the Conservation and Management of Sharks (IPOA-Sharks) and by banning directed shark fisheries conducted solely for the purpose of harvesting shark fins, and to encourage the full use of dead sharks.

11. In addition, States should eliminate barriers to trade in fish and fisheries products that are not consistent with their rights and obligations under the World Trade Organization (WTO) agreements, taking into account the importance of the trade in fish and fisheries products, particularly for developing countries.[8] States and relevant international and national organizations should also provide for participation of small-scale fishery stakeholders in related policy development and fisheries management strategies in order to achieve long-term sustainability for such fisheries.

# III. Implementation of international instruments for the conservation, management and sustainable use of fishery resources

12. The adoption of international instruments, whether voluntary or legally binding, is not sufficient to ensure the conservation and sustainable use of fisheries resources. To be effective, international instruments must be implemented comprehensively through concrete measures at the national, subregional and regional levels.

## A. Implementation of the United Nations Fish Stocks Agreement

13. The United Nations Fish Stocks Agreement is considered to be the most important multilateral legally binding instrument for the conservation and management of high seas fisheries since the adoption of UNCLOS in 1982. Its objective is to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks through effective implementation of the relevant provisions of UNCLOS.

14. As at 31 July 2007, 66 States and the European Community had become parties to the Agreement (see annex II to the present report). The following have indicated that they are taking steps to become parties: Malaysia and Suriname (as reported in their submissions); European Union (EU) member States that are not yet

[7] *Report of the twenty-fifth session of the Committee on Fisheries, Rome, 24-28 February 2003*, FAO Fisheries Report No. 702 (FIPL/R702(En)), appendix H.

[8] Note 3 above. According to FAO, international fish trade increased dramatically over the past 20 years, from $15.4 billion in 1980 to $71.5 billion in 2004. Developing countries have particularly benefited from that increase, with net receipts increasing from $3.7 billion to $20.4 billion over the same period, greater than their net exports of other food commodities taken together.

parties; Indonesia, Morocco, Mozambique, Palau, the Philippines and Sierra Leone (see A/CONF.210/2006/15, para. 123); and the Republic of Korea.[9]

## 1. Implementation of relevant provisions of the Agreement

15. **Harmonization of national legislation by States parties**. A number of States parties reported on the steps taken to harmonize their national legislation with the Agreement.[10] Fiji reported that its draft fisheries management bill incorporated provisions of the Agreement. Norway reported that a new ocean resources law was under development and would apply to the utilization of all wild marine resources, including genetic material. Its objective would be to ensure socially and economically profitable management of wild marine resources by sustainable use and long-term conservation of the resources.

16. **Implementation of relevant provisions of the Agreement in RFMO/As of which States parties are members or participants**. Australia, EC, Fiji and Norway reported that the instruments establishing the South-East Atlantic Fisheries Organization (SEAFO), the South Indian Ocean Fisheries Agreement (SIOFA) and the Western and Central Pacific Fisheries Commission (WCPFC), all of which were made after the adoption of the Agreement in 1995, incorporated its principles. In addition, EC and Norway reported on efforts to ensure that established RFMOs (in particular, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the International Commission for the Conservation of Atlantic Tunas (IATTC), the North-West Atlantic Fisheries Organization (NAFO) and the North-East Atlantic Fisheries Commission (NEAFC)) implemented relevant parts of the Agreement. Australia stated that there were efforts to ensure that the proposed RFMO in the South Pacific embodied the principles of the Agreement.

17. **Flag State duties to ensure compliance with conservation and management measures adopted by RFMO/As** (see also A/60/189, paras. 6-10, and A/CONF.210/2006/1, paras. 267-273). Article 18 of the Agreement sets out the duties of flag States parties to the Agreement whose vessels fish on the high seas. Many respondents, including non-parties, reported that they had incorporated some or all of the provisions of article 18 of the Agreement into their domestic legislation.[11] For Ecuador, Malaysia, Mexico, Morocco and Nicaragua, which are not party to the Agreement, the obligation to ensure that their vessels comply with measures adopted by RFMOs derives from compliance with other international obligations at the global or regional level.

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[9] Report of the sixth round of Informal Consultations of States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (ICSP6/UNFSA/REP/INF.1), New York, 23 and 24 April 2007, para. 21.

[10] National legislation identified by the respondents included the following: Australia (Fisheries Management Act 1991); Namibia (Marine Resources Act (Act No. 27 of 2000)); New Zealand (Fisheries Act 1996 (Part 6A)); Norway (Coastguard Act); and United States (Magnuson-Stevens Fishery Conservation and Management Act, as revised in 2007, and the High Seas Fishing Compliance Act of 1995).

[11] Australia (Fisheries Management Act 1991); Canada, EC (Council Regulation 2371/2002 and annual Total Allowable Catch and Quota Regulation); Fiji; Latvia; Malaysia; Mexico (Fisheries Act and Regulations); Morocco; Namibia (Marine Resources Act (2000)); New Zealand (Part 6A of the Fisheries Act (1996)); Nicaragua; Norway (Coastguard Act); Thailand; United States (High Seas Fishing Compliance Act); Uruguay.

18. The range of measures taken at the national level by flag States include requirements to obtain an authorization, licence or permit to engage in high seas fishing; maintaining registers of vessels authorized to engage in high seas fishing and providing that information to RFMOs; legal requirements to comply with RFMO conservation and management measures; measures for the identification, monitoring, control and surveillance of fishing vessels; obligations to keep records and provide reports on catch and landing; prohibition or regulation of trans-shipment on the high seas; and mechanisms to investigate, prosecute and impose sanctions for violations of conservation and management measures adopted by RFMOs.

19. Australia stated that it was developing a formal high seas fishing policy to guide decisions on granting permits and setting conditions. Namibia reported that in September 2006 it adopted regulations relating to the licensing of foreign flagged vessels that fish outside its exclusive economic zone.[12] The aim of the legislation was to ensure that the flag State did not claim catches during the charter period, consistent with the measures of RFMOs (including the International Commission for the Conservation of Atlantic Tunas (ICCAT)) of which Namibia was a member.

20. **Implementation of article 21, paragraph 4 of the Agreement.** Article 21, paragraph 4, requires inspecting States, prior to undertaking boarding and inspection of fishing vessels flying the flag of other States parties to the Agreement, to inform all States whose vessels fish on the high seas in the relevant subregion or region of the form of identification issued to their duly authorized inspectors. Further, at the time of becoming a party to the Agreement, States parties are required to designate an appropriate authority to receive notifications pursuant to article 21 and to give due publicity to such designation through the relevant RFMO/As. New Zealand stated that it met the requirements of article 21 whenever it undertook high seas boarding and inspections. The European Community (EC) reported that all Community inspectors undertaking tasks in the areas covered by NAFO and NEAFC carried identification cards issued by the relevant RFMO. It indicated also that the European Commission was the authority designated to receive notification of inspectors from member States and the names were passed on to the relevant RFMO. Canada reported that some information regarding the form of identification of its duly authorized officials was provided to NAFO contracting parties. Norway reported that information on the form of identification was provided through relevant RFMOs and that its Directorate of Fisheries was the designated authority to receive notifications under article 21, paragraph 4 of the Agreement. The designated authorities of Germany, Ireland and Japan are as follows: the Federal Agriculture Agency (Germany), the Department of Communications, Marine and Natural Resources (Seafood Control Division) and Irish Naval Service (Commanding Officer) (Ireland), and the Fisheries Agency of the International Division (Japan).

21. The United States, while pointing out that it had never taken law enforcement action pursuant to article 21, indicated that it had designated members of the United States Coastguard and agents of the United States National Marine Fisheries Service as authorized officials to conduct boarding and inspection functions in regions managed by RFMOs where management measures are enforceable at sea. It has also

[12] Regulations Relating to Licensing of Foreign Flagged Vessels for the purpose of Harvesting Namibia's Share of Marine Resources outside the EEZ (Government Notice No. 147, 2006).

notified States whose vessels fish in those regions of its duly authorized officials through diplomatic channels.

22. **Conservation and management of discrete high seas fish stocks.** Most of the known discrete high seas fish stocks are deep water species and others may be pelagic species (see A/CONF.210/2006/1, paras. 104-116). EC noted that the definition of discrete high seas fish stocks was not yet clear in scientific terms. Australia reported that its arrangement with New Zealand regarding the conservation and management of orange roughy on the South Tasman Rise, which has been in place since 2000, was being renegotiated. It also had a fisheries conservation and management arrangement with Papua New Guinea under the Torres Strait Treaty. In addition, Australia was negotiating with Indonesia a joint management arrangement for red snapper stocks, including the development of precautionary harvesting strategies for such stocks. The United States reported that the High Seas Fishing Compliance Act provided a basis for regulating vessels flying its flag fishing in areas beyond national jurisdiction, including for discrete high seas fish stocks.

23. A number of RFMOs (CCAMLR, NAFO, NEAFC, SIOFA, SEAFO) have the competence to manage discrete high seas stocks. CCAMLR conservation measures applied to all stocks in its area of competence and were adopted after advice from its Scientific Committee, thus taking account of the best available scientific advice. CCAMLR also had a new and exploratory fisheries component that required members to provide prior notification before fishing. That procedure allowed its Commission to set catch limits based on the precautionary approach.[13] Norway reported that NEAFC had a management system in place for deep sea species and that NAFO was managing a discrete high seas shrimp stock. In addition, Canada and the United States reported that some RFMOs with the competence to manage bottom fisheries had adopted measures in respect of discrete high seas stocks, including the closure of four seamounts to demersal gear by NAFO, the adoption of similar measures by SEAFO and an interim prohibition on expansion of bottom trawling by CCAMLR.

## 2. Implementation of the outcome of the Review Conference

24. The Review Conference of the Agreement, held in New York in May 2006, adopted a number of recommendations to States, individually and collectively through RFMOs, relating to the following topics: conservation and management of stocks; mechanisms for international cooperation and non-members; monitoring, control and surveillance and compliance and enforcement; and developing States and non-parties (see A/CONF.210/2006/15, annex, paras. 18, 32, 43 and 55).

25. **Measures taken by States.** A number of States indicated that their broader response to the questionnaires provided information on measures they had taken to implement the recommendations of the Review Conference, as a number of the outcomes of the Conference were reflected in the provisions of General Assembly resolution 61/105. Those measures included participation in meetings to improve the performance of RFMOs, such as the meeting of five tuna RFMOs in Kobe, Japan, in January 2007; support for the development by FAO of a legally binding instrument on port State measures to combat illegal, unreported and unregulated fishing; the

[13] As reported in the submission of Australia.

establishment of a global fishing vessel database; and the development of technical guidelines for the management of deep sea fisheries.

26. However, some States also provided general information on their implementation of the recommendations of the Review Conference. The United States reported on a number of measures taken to implement them, including strengthening domestic measures against foreign illegal, unreported and unregulated fishing, its support for review of the mandates and performance assessments of RFMOs, its participation in negotiations in the proposed RFMOs in the north-western Pacific and South Pacific and its proposal for new disciplines in WTO to eliminate harmful fisheries subsidies. Norway stated that much of its legislation on fisheries management was being redrafted and that relevant recommendations would be taken into account. Further, the recommendations would be used as a basis for reviewing RFMO instruments, for example the revised NAFO convention. New Zealand was working individually and through RFMOs to which it belonged as well as in other international forums to implement the recommendations of the Conference. Congo stated that although it was not yet a party to the Agreement, it had nonetheless taken measures to implement some recommendations of the Review Conference. Mexico pointed out that it participated as an observer in the Conference and was of the view that some provisions of the Agreement, such as those on high seas inspection and boarding, should be amended.

27. **Activities carried out by FAO.** FAO reported on the steps it had taken under article 7 (Data exchange), paragraph 2 of annex I to the Agreement (Standard requirements for the collection and sharing of data), to initiate arrangements with flag States for the collection and dissemination of data on fishing on the high seas by vessels flying their flag at the regional and subregional levels where no RFMO exists. FAO stated that no particular mechanism had been established for that purpose as its existing practice was to collect and disseminate data from all flag States, irrespective of whether an RFMO existed in the area where the vessels operated.

28. FAO also provided information on the steps it had taken to revise its global fisheries statistics database to provide information on straddling fish stocks, highly migratory fish stocks and discrete high seas fish stocks on the basis of where the catch had been taken. FAO was of the view that it would be preferable to establish a global compilation and dissemination system that would make it possible to disseminate data obtained from RFMOs in a harmonized way from a central source. FAO indicated that it had the physical capacity to host such a global database but would require additional funding for the purpose.

29. At the twenty-seventh session of the FAO Committee on Fisheries in March 2007, the Coordinating Working Party on Fisheries Statistics recommended that FAO establish a consolidated catch database based on the publicly available data and under the Working Party's general guidelines. It further recommended exploring the utilization of vessel monitoring system (VMS) data, in addition to their monitoring, control and surveillance (MCS) uses, for scientific and statistical purposes.[14]

[14] Report of the twenty-seventh session of the Committee on Fisheries, Rome, 5-9 March 2007, FAO Fisheries Report No. 830 (FIEL/R830 (En)), para. 20.

### 3. Sixth round of informal consultations of States parties to the Agreement

30. The sixth round of informal consultations of States parties was held in New York, on 23 and 24 April 2007, for the purposes and objectives of considering the national, regional, subregional and global implementation of the Agreement, as well as the initial preparatory steps for the resumption of the Review Conference convened by the Secretary-General pursuant to article 36 of the Agreement.

31. In relation to implementation of the Agreement, the themes that emerged from the informal consultations included the need for ongoing efforts to modernize RFMOs, the need for continuing action to combat illegal, unreported and unregulated fishing and the importance of maintaining momentum in the implementation of the recommendations of the Review Conference. States also emphasized the need to work to ensure universal participation in the Agreement. A general preference was expressed by many States for the resumption of the Review Conference in either 2010 or 2011. Nonetheless, the States parties to the Agreement did not make any recommendation to the General Assembly concerning their future programme of work.

## B. Implementation of fishery instruments of the Food and Agriculture Organization of the United Nations

### 1. Compliance Agreement of the Food and Agriculture Organization of the United Nations

32. As at 31 July 2007, 34 States and EC had accepted the FAO Compliance Agreement (see annex III). Fiji and Suriname reported that they expected to become parties to the Compliance Agreement. Malaysia reported that it would either become a party or apply it provisionally. Thailand, a non-party, stated that it applied some of the provisions of the Compliance Agreement.

33. Several States reported on measures they had taken to implement the Compliance Agreement.[15] In particular, Norway established a specific licensing system for high seas fisheries in accordance with the Compliance Agreement. Australia enforced strict controls over vessels flying its flag to ensure compliance with conservation and management measures adopted by RFMOs and responded to alleged violations by promptly conducting investigations and prosecutions. Mexico emphasized that it had registration requirements that applied to all individuals or companies engaged in commercial fishing under a permit, licence or authorization, and to all fishing vessels.

### 2. Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations

34. Australia, Canada, EC, Ecuador, Fiji, Kuwait, Latvia, Mexico, Malaysia, Morocco, Namibia, New Zealand, Nicaragua, Norway, Qatar, Suriname, Thailand, United States and Uruguay reported on measures they had taken to implement and

[15] Australia, Canada, EC, Latvia, Mexico, Morocco, New Zealand (Part 6A of the Fisheries Act 1996), Norway, United States (High Seas Fishing Compliance Act).

promote the Code of Conduct for Responsible Fisheries.[16] Malaysia and Thailand reported on steps to translate and distribute the Code to stakeholders and Mexico and Thailand and described measures to provide training for fishers. Australia, Mexico and Uruguay reported that they had developed fishery management plans and programmes for the development of the aquaculture industry that incorporate principles of the Code. Mexico also stated that principles of the Code formed the basis of amendments to national legislation. Australia reported on recent developments to implement ecosystem-based fisheries management and undertake ecological risk assessments for major Commonwealth fisheries. Kuwait, Malaysia, Morocco and Uruguay provided information relating to the range of domestic measures for the conservation and management of their fisheries. Suriname noted that principles of the Code were reflected in its draft fisheries act and draft aquaculture act.

35. A number of RFMOs also provided information on the steps they had taken to promote the Code (see also A/60/189, para. 26). They included incorporating the Code into programmes of work (the Asia-Pacific Fishery Commission (APFIC), the Western Central Atlantic Fishery Commission), regional workshops relating to illegal, unreported and unregulated fishing and port State measures (the Permanent Commission for the South Pacific (CPPS), the General Fisheries Commission for the Mediterranean (GFCM)) and efforts to promote awareness of the Code and the international plans of action, adopted by FAO (OLDEPESCA). Other RFMOs (IATTC, ICCAT, the International Pacific Halibut Commission (IPHC), NAFO, the North Atlantic Salmon Conservation Organization (NASCO), NEAFC, SEAFO, WCPFC) reported that they had incorporated the principles and standards of the Code into the measures adopted for the conservation and management of fish stocks. In addition, SEAFO and IATTC reported that relevant provisions of the Code were already incorporated into their respective conventions. Amendments to the NEAFC convention, schemes and rules of procedure also reflected some of the general principles of the Code. Further, NASCO and NEAFC stated that they had established mechanisms allowing for the participation of interested organizations in their work, including non-governmental organizations, in accordance with the relevant provisions of the Code.

### 3. International plans of action of the Food and Agriculture Organization of the United Nations

36. Many respondents reported that they had adopted national plans of action to implement various international plans of action or were in the process of developing such plans.[17] Several States indicated that their national plans of action were at

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[16] For details of previous implementation of the Code by a number of States, see A/60/189, paras. 22 and 23.

[17] *IPOA for the Conservation and Management of Sharks*. States that have adopted a national plan of action: Australia, Malaysia, Mexico, Namibia, Thailand and the United States. Suriname reported that its national plan of action will be revised. States that are developing a national plan of action: Fiji, Morocco and New Zealand.
*IPOA for Reducing Incidental Catch of Seabirds in Longline Fisheries*. States that have adopted a national plan of action: New Zealand and the United States. States that are developing a national plan of action: Australia and Namibia.
*IPOA for the Management of Fishing Capacity*. States that have adopted a national plan of action: Nicaragua and the United States. States that are developing a national plan of action: Malaysia, Mexico, Namibia and Thailand.

various stages of implementation. Further information on the implementation of IPOA-IUU, IPOA-Sharks, IPOA-Capacity and IPOA-Seabirds has been provided in section V of the present report. Norway stressed, however, that as a general policy it did not formulate specific national plans of action, but instead integrated their policies into national regulations.

## IV. Promoting responsible fisheries in the marine ecosystem

37. Sustainable fisheries can only be achieved through responsible fisheries in the marine ecosystem, with fisheries governance addressing such issues as the status of the resource, the health of the environment, the impact of fishing practices and methods on associated and dependent species and marine ecosystems, the importance of economic and social factors and the legal and administrative framework required for ensuring the conservation and management of fishery resources.

38. The impact of unsustainable fishing practices on the health and productivity of marine ecosystems has become a concern for the international community. Even if target species are not being overfished, some fishing practices affect marine habitats and can alter the functioning, state and biodiversity of marine ecosystems, particularly vulnerable marine ecosystems. Specific concern has been expressed over destructive fishing practices and environmental damage due to the inappropriate use of otherwise acceptable fishing gear and methods in some marine ecosystems and habitats, particularly the impacts of bottom trawling on vulnerable marine ecosystems and their associated animal and plant life (see A/61/154).

39. The international community has also expressed concern over adverse impacts of marine debris from fishing activities on fish stocks, marine habitats and biodiversity. Adopting measures to reduce lost, abandoned or discarded fishing gear and related marine debris is an important factor in promoting responsible fisheries.

40. Over the past 10 years, the aquaculture industry has become increasingly important in increasing fish production, generating income and reducing pressure on capture fisheries. However, although aquaculture may appear to be more sustainable than capture fisheries, experts believe that the industry needs to address the ecological effects of methods used in the production of farmed fish on the marine environment, wild fisheries and human health.[18]

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*International plan of action to Prevent, Deter and Eliminate IUU Fishing*. States that have adopted a national plan of action: Australia, Namibia, Nicaragua, New Zealand, Spain and the United States. States that are developing a national plan of action: Malaysia, Mexico and Thailand.

Further, Qatar and Uruguay reported that they had developed or were developing national plans of actions to implement some of the FAO international plans of action.

[18] *The State of World Fisheries and Aquaculture, 2002* (FAO, Rome, 2002), pp. 74-83; FAO Fisheries Circular No. 989 (FIRI/C989), Genetically modified organisms and aquaculture (Rome, 2003), pp. 19-22; and Financial Times (13 January 2004).

## A. Achieving sustainable aquaculture

41. Aquaculture now accounts for almost 50 per cent of the world's food fish and is perceived as having the greatest potential to meet the increasing demand for aquatic food.[19] However, there is a growing understanding that sustainable development of the aquaculture sector requires an enabling environment, with appropriate institutional, legal and management frameworks guided by an overall policy. While efforts towards reaching the goal of sustainable development vary by country according to the level of commitment by policymakers and the scale of development of the aquaculture sector, notable progress has been made in a number of institutional, legal and management development areas, including the use of various public and private-sector partnership arrangements. As the importance of aquaculture continues to rise, more regional and international instruments are likely to be developed to support governance of the sector, including regional intergovernmental networks.[20]

42. An encouraging trend is that an increasing number of countries have formulated, or are in the process of formulating, fisheries policies, plans, regulations and strategies that accommodate and facilitate growth and efficient management of the aquaculture sector. One of the key trends is enhanced regulation and better governance, including through codes of practice and better management practices. Environmental impact assessments and routine environmental monitoring are also being used to moderate external effects. Recent developments, such as the Abuja Declaration on Sustainable Fisheries and Aquaculture in Africa,[21] and the launch of the Global Programme on Fisheries,[22] demonstrate national and international commitment to realize the potential that fisheries and aquaculture have to contribute to food security, poverty reduction and economic development.

**Measures taken by States**

43. Several States reported that they had a legal framework in place to regulate the development of sustainable aquaculture. Norway had a variety of regulations and measures aimed at ensuring sustainable aquaculture activity, including measures to prevent escape of farmed fish, manage environmental impacts and control disease and contamination. New Zealand achieved sustainable aquaculture through national legislation that enabled sustainable growth of aquaculture and ensured cumulative environmental effects were properly managed. Aquaculture was subject to strict regulation in Australia and the Government also facilitated industry cooperation, funded aquaculture projects and supported sustainable aquaculture projects in indigenous communities. A joint subcommittee was established in the United States to coordinate federal agency activities on aquaculture and recommend national

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[19] *State of World Aquaculture 2006*, FAO Fisheries Technical Paper No. 500 (Rome, 2006). Given projected population growth, it has been estimated that at least 40 million additional tons of aquatic food will be required by 2030 to maintain the current per capita consumption.

[20] Supra, note 3. For example, see the Network of Aquaculture Centres in Asia-Pacific and the Network of Aquaculture Centres in Central-Eastern Europe.

[21] As adopted by the Heads of State Meeting of the New Partnership for Africa's Development (NEPAD) "Fish for All" Summit in Nigeria. For further information, see http://www.fishforall.org/ffa-summit/africasummit.asp.

[22] A new global partnership of developing countries, donors and technical agencies led by the World Bank. For further information, see http://www.worldbank.org.

aquaculture policy, and legislation was being proposed to establish the legal framework for permits, enforcement and monitoring of aquaculture in United States federal waters. EC had taken or was taking new measures for sustainable aquaculture, including measures to prevent and control diseases in aquatic animals and to govern the introduction and translocation of alien species. Regulations in Thailand provided for monitoring, inspection and certification of farms to ensure safety of aquaculture products, implementation of good aquaculture practices and prevention of the introduction of non-native species. Mexico was working to improve sanitary conditions for shrimp cultivation, provide technical guidance for aquaculture producers to reduce economic loss from disease and promote efforts to reduce exotic species in aquaculture and avoid impacts on native fish populations and habitats.

44. Canada, EC, Malaysia, Morocco, Norway, Qatar and Suriname reported that they were cooperating through bilateral or multilateral arrangements, including at the regional level, to enhance sustainable aquaculture. Mexico and Thailand were also taking steps to promote the observance of the FAO Code of Conduct and the Technical Guidelines for Responsible Fisheries in relation to aquaculture. Canada was currently working through an expert workshop of the FAO Committee on Fisheries Subcommittee on Aquaculture to develop globally acceptable guidelines for the development of aquaculture certification schemes. It was also supporting the formation of the aquaculture network for the Americas. Latvia recently carried out a project in cooperation with FAO to improve animal health, quality and the safety of aquatic products. Mexico was working with other Latin American countries to standardize research protocols and identification techniques for sustainable aquaculture.

**Activities carried out by FAO**

45. FAO continued to provide advice and information to States and stakeholders to support the implementation of provisions in the Code of Conduct relevant to aquaculture, in close collaboration with national and international institutions.[23] That included promoting sustainable use of fisheries resources for aquaculture development, reducing environmental and biodiversity impacts from aquaculture, analysing and reporting on trends in aquaculture development and assisting in decision-making for sustainable development of aquaculture. The ongoing work of FAO on the state of world aquaculture resulted in a major review in 2006 that analysed past trends and described the current global status of aquaculture.[19] FAO also continued efforts to build international consensus of stakeholders by providing platforms at regional and global levels through the regional fisheries bodies and the Subcommittee on Aquaculture of the FAO Committee on Fisheries.

46. In addition, FAO was promoting responsible use of alien species in aquaculture, including by developing the database on introductions of aquatic species, as well as responsible marine stocking and sea ranching. It was also making efforts to address environmental costs of aquaculture. Moreover, FAO was supporting its Commission on Genetic Resources for Food and Agriculture through

[23] Those institutions include FAO statutory bodies such as COFI, the COFI Subcommittee on Aquaculture, APFIC, COPESCAL, GFCM and RECOFI. Some key partners of the FAO sustainable aquaculture development programme include APEC, CBD, CITES, GESAMP, ICES, NACA, OIE, OSPESCA, SEAFDEC, the World Bank, WFC and WWF.

the production of reports on the status and trends of fishery genetic resources in aquaculture, capture fisheries and the deep sea. Work on sustainable shrimp farming continued under the consortium programme with the Network of Aquaculture Centres in Asia-Pacific, the World Bank and the World Wide Fund for Nature (WWF). Additional major activities included development of guidelines on aquaculture certification, risk assessment and management in aquaculture and new technical guidelines on aquatic animal health management and safe transboundary movement of live aquatic species.[24] FAO was also promoting the use of geographic information systems to improve sustainability of aquaculture and it had developed a number of such products.

47. FAO continued to actively participate in the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) framework, including support for the Working Group on Environmental Risk Assessment and Communication in Coastal Aquaculture, and it had proposed a new GESAMP working group on the application of the ecosystem approach to mariculture. Within the framework of GFCM, work was progressing to define and implement aquaculture sustainability indicators and to develop tools for cage aquaculture in the Mediterranean. It was also participating in the WWF Salmon Dialogue on Escape of Farm Salmon, to address ecosystem effects, management and mitigation. With support from Japan, FAO was undertaking studies on sustainable aquaculture that would generate vital information for improving management and sustainability of aquaculture worldwide.

**Activities carried out by other relevant organizations and bodies**

48. NASCO adopted several recommendations for the application of the precautionary approach, including a resolution to minimize the impacts of aquaculture, introductions and transgenics on wild Atlantic salmon. The United Nations Development Programme (UNDP) was also undertaking activities to promote sustainable aquaculture through its Global Environment Facility (GEF) Benguela Current Large Marine Ecosystem Programme (BCLME) in Africa, Guinea Current Large Marine Ecosystem Programme (GCLME) in Africa, and the Yellow Sea Large Marine Ecosystem Project (YSLME) in Asia. BCLME was promoting sustainable aquaculture through regional site assessments, the development of regional aquaculture policy, an early warning system for harmful algal blooms and monitoring programmes for shellfish sanitation. In cooperation with participating countries, YSLME was promoting and coordinating regional mariculture and sea farming strategies to achieve sustainable aquaculture, including through a review of existing status and trends of mariculture, training courses on sustainable mariculture techniques, reviewing the effects of mariculture on biodiversity and development of a mariculture multi-species carrying capacity model. The programme would also assess, diagnose and provide controls for disease associated with mariculture.

[24] The new technical guidelines on health management for responsible movement of live aquatic animals were designed to assist countries reduce the risk of introduction and spread of serious transboundary aquatic animal diseases. *Aquaculture Development 2. Health Management for Responsible Movement of Live Aquatic Animals*, FAO Technical Guidelines for Responsible Fisheries 5 Suppl. 2 (Rome, 2007).

## B. Addressing marine pollution

### 1. Derelict fishing gear and other marine debris

49. There are no current figures on the amount of marine debris worldwide, but some calculations estimate that 8 million items of marine debris enter the oceans and seas every day from sea- and land-based sources. Most marine litter degrades slowly and a continuous input would result in a gradual build-up in the coastal and marine environment (see A/60/63, paras. 232-283).[25]

50. It was estimated that 30 per cent of all sea-based sources of marine litter originate from the fishing industry,[26] including through accidental loss of fishing gear or intentional disposal of worn out gear, and that hundreds of thousands of tons of undegradable fishing nets were present in the world's oceans. Derelict fishing gear made with modern synthetics resistant to degradation has been identified as the most biologically threatening of the debris categories (see A/60/63, para. 240). The concerns of the General Assembly over lost, abandoned or discarded fishing gear and related marine debris and their adverse impacts on fish stocks, habitats and other marine species were reflected in paragraphs 77 to 82 of its resolution 60/31, and were reaffirmed in its resolution 61/105.

51. **Measures taken by States**. Several States reported progress in implementing paragraphs 77 to 81 of General Assembly resolution 60/31. EC banned the use of deep sea gill nets in some areas in waters deeper than 600 metres and only permitted their use at other depths under conditions designed to avoid ghost fishing. Norway adopted specific regulations on fishing with gill nets and it raised the issue of derelict fishing gear and marine debris in NEAFC, which led to several prohibitions of such practices. Australia was developing a threat abatement plan to target injury and fatality to vertebrate marine life caused by ingestion of, or entanglement in, harmful marine debris. It was also developing nationally consistent approaches to data gathering and information collation on marine debris and better understanding of pathways of debris of international origin. Further, it was co-sponsoring a project with Indonesia and Chile to assess the economic benefits and costs of controlling marine debris in the Asia-Pacific Economic Cooperation region.

52. In the United States, the National Oceanic and Atmospheric Administration Marine Debris Programme was charged with developing a clearing house of information on marine debris in general, which would include information on fishing gear and derelict fishing gear. New Zealand adopted legislation to regulate discharges of waste, which included penalties for breach, and dumping standards based on the International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 (MARPOL 73/78). Malaysia established a national inventory of net types and other fishing gear, while Latvia obtained data on gear losses and economical casualties to fisheries through a fisheries data collection system and specific questionnaires sent to fishermen. Namibia expressed the need for both technical and financial assistance to study and develop a data collection system on gear loss. Fiji, Kuwait, Mexico, Suriname, and Thailand

[25] Marine debris refers to any persistent, manufactured or processed solid material discarded, disposed of or abandoned in the marine and coastal environment.

[26] Sea-based sources of marine debris include merchant shipping, ferries and cruise liners, fishing vessels, military fleets and research vessels, pleasure craft, offshore oil and gas platforms and aquaculture installations.

reported that they had addressed or were in the process of addressing the issue of lost or abandoned fishing gear and related marine debris.

53. Norway, Thailand and the United States had adopted systems to retrieve abandoned or lost gear and other marine debris, including community-based removal programmes. In the United States, derelict fishing gear originating from distant-water fisheries has been removed from coral reefs and beaches in the North-western Hawaiian Islands and protocols for the removal of derelict fishing gear from local fisheries have been developed. Projects were also under way to identify areas of derelict fishing gear accumulation, determine the amount of derelict fishing gear in federally protected areas, and develop removal programmes through coastal States. In Canada, marine debris was collected by volunteer and community groups. Qatar was also conducting studies on the impact of derelict fishing gear, including studies on the environmental impact of drift net and fish trap fishing and fishing cages lost at sea, and the United States was investigating the impact of derelict fishing gear on fisheries.

54. **Measures adopted by RFMO/As.** Several RFMO/As and regional fisheries bodies also reported progress in implementing paragraphs 77 to 81 of General Assembly resolution 60/31. Vessels in the NEAFC regulatory area were prohibited from deploying gill nets, entangling nets or trammel nets in waters deeper than 200 metres until regulatory measures were adopted, and all such nets were to be removed by February 2006. However, regulations requiring the recovery of lost gear have not been adopted in the NEAFC regulatory area, and funding for such campaigns has not been identified. IATTC prohibited its vessels from disposing of salt bags or other types of plastic waste at sea. ICCAT did not have measures concerning derelict fishing gear but contracting parties had to ensure that fishing gear was marked in accordance with generally accepted standards. IPHC monitored and reported on the impact of lost and abandoned gear on stock dynamics, but it did not assess their economic or ecosystem effects. It reported that an extensive port interview programme for harvesters regularly monitors more than 90 per cent of the landed weight of the catch, censusing gear lost and wastage. Loss of gear has been minimal since the introduction of individual quota management frameworks, which allowed greater control by harvesters and more rational prosecution of the fishery. GFCM established a working group on fishing gear technology to address the issue, which included establishment of a database on fishing gear. The Western Central Atlantic Fishery Commission provided information on derelict fishing gear and related marine debris to its members, including guidelines and best practices for countries to tailor to their local situation.

55. Some RFMOs reported that they had not been requested by their member States to work on the issue (APFIC), have yet to address the issue (SEAFO), or did not currently see the need to address the problem for the fisheries under their responsibility (NAFO). In WCPFC, the Commission had not developed operational guidelines to implement the general principles in its convention. The work of CPPS on the issue would be conducted through the new South Pacific regional fisheries management organization, which it had been helping to establish.

**Activities carried out by other relevant organizations and bodies**

56. FAO was cooperating with the United Nations Environment Programme (UNEP) to prepare a study on marine litter and abandoned and lost fishing gear,

which concluded that derelict fishing gear remained a serious global problem causing significant ecological, biodiversity, economic and amenity impacts. The study indicated that some regions had little or no data in relation to the issue and identified the need for a concentrated global effort to address the problem, requiring close cooperation between relevant United Nations agencies, including FAO, IMO and UNEP, regional fisheries bodies, regional seas organizations, States, the fishing industry and non-governmental organizations. The final report would stress that a global response should focus on the implementation of annex V to MARPOL, rather than develop new regimes. UNEP was also continuing to coordinate and develop its global initiative on marine litter, and a series of regional actions on marine litter were being developed, in close cooperation with the secretariats of 11 regional action plans. A new global partnership devoted to the initiative was developed during the second Intergovernmental Review Meeting of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA), held in Beijing from 16 to 20 October 2006.

### 2. Other sources of marine pollution

57. It is generally accepted that some 80 per cent of all marine pollution originates from land-based activities. Fisheries are particularly vulnerable to growing pressures on coastal areas and can be undermined by pollutants originating from the land, including sewage and agricultural runoff.[27]

58. In this regard, GPA was designed to assist States in taking actions that would lead to the prevention, reduction, control or elimination of the degradation of the marine environment, and to its recovery, from the impacts of land-based activities (see A/62/66, paras. 268-272). To that end, the General Assembly in its resolution 61/105 noted the Second Intergovernmental Review Meeting of GPA and urged all States to implement it and to accelerate activity to safeguard the marine ecosystem, including fish stocks, against pollution and physical degradation.

59. Several States indicated that they had taken measures to implement GPA, including specifically designed national programmes of action (Australia, Canada), regional mechanisms and frameworks (EC, United States), direct technical assistance and financial support and an information clearing house (United States), regulations for sustainable management of natural and physical resources (New Zealand), restrictions on land-based pollution load (Kuwait), identification of threats to biodiversity and oil spill contingency plans (Namibia), regulation of effluent discharge (Malaysia), integrated management plans for natural resources and goods derived from the sea and policies on hazardous substances (Norway), strategies for a regional programme of action and observation of other international instruments to prevent marine pollution (Mexico), joint working groups and watershed management (Thailand), as well as environmental impact assessments (Fiji, Mexico, Qatar).

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[27] UNEP/GPA/IGR.2/6, Ministerial/high level segment background paper, available at http://www.gpa.unep.org. A recent report indicates that priority needed to be given to nutrient over-enrichment, sewage and management of municipal wastewater, and physical alteration and destruction of habitats, in addition to marine litter, in order to make progress in protecting the marine environment from the effects of land-based activities: see UNEP/GPA, *The State of the Marine Environment: Trends and processes* (The Hague, September 2006).

## C. Measures to address bottom fisheries and protect vulnerable marine ecosystems

60. As called for in paragraph 71 of resolution 59/25, a review was held at the sixty-first session of the General Assembly on progress in action taken by States and RFMOs, in response to the requests made in paragraphs 66 to 69 of the resolution, to address the impacts of fishing on vulnerable marine ecosystems, including bottom trawling, which has adverse impacts on vulnerable marine ecosystems. The present report gives further information on measures taken by the international community to implement paragraphs 66 to 69 of resolution 59/25.

61. Following the review, the General Assembly adopted paragraphs 80 to 90 in its resolution 61/105 calling upon States, inter alia, to take action immediately, individually and through RFMO/As, to sustainably manage fish stocks and protect vulnerable marine ecosystems from destructive fishing practices, and to adopt and implement measures to regulate bottom fisheries. To that end, it requested the Secretary-General to include in his report on fisheries to the General Assembly at its sixty-fourth session a section on the relevant actions taken.

62. In order to allow for a preliminary consideration of the implementation of measures to regulate bottom fisheries and protect vulnerable marine ecosystems, an interim report on the measures taken by States and RFMO/As to give effect to paragraphs 83 to 90 of resolution 61/105 to address the impacts of fishing on vulnerable marine ecosystems has been provided in this section (see also A/61/154). In accordance with paragraph 91 of resolution 61/105, a full report will be submitted by the Secretary-General in his report on fisheries to the General Assembly at its sixty-fourth session in 2009.

### 1. Further implementation of paragraphs 66 to 69 of resolution 59/25

63. Several States reported that they had undertaken various actions to further implement paragraphs 66 to 69 of General Assembly resolution 59/25 in order to address the impacts of fishing on vulnerable marine ecosystems. In that context, some States reiterated their view that further action was needed to address the impacts of fishing on vulnerable marine ecosystems (EC), which needed to be a more stringent regulatory approach to the management of fishing activities with potential destructive impact on fragile benthos, including reversing the burden of proof (EC, Latvia).

64. The United States reported that the 2007 amended Magnuson-Stevens Fisheries Conservation and Management Act, as amended in 2007, called for strengthened domestic measures against foreign illegal, unreported and unregulated fishing and changed domestic provisions that could affect prosecution of illegal, unreported and unregulated fishers, in particular by identifying as illegal, unreported and unregulated fishing activities that had an adverse impact on seamounts, hydrothermal vents and cold water corals located beyond national jurisdiction, and for which there were no applicable conservation or management measures, or in areas with no applicable RFMO/A. Canada was developing a sensitive marine areas policy that would be applied in Canadian waters, and to Canadian vessels fishing beyond areas of national jurisdiction. Canada also highlighted its participation in the Group of Experts of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, which had been tasked with producing a

feasibility study and guidelines or best practices for a global marine assessment, as well as initiatives to develop a classification system to describe the biogeographic regions of the world's oceans.[28] Morocco was in the process of adopting regulations to prohibit the use of mesh drift nets, and Suriname was reducing the number of fisheries where bottom trawling was allowed. Congo reported that it was committed to developing a reliable scientific database, identifying vulnerable marine ecosystems and studying the impact of fishing on the environment and resources by improving data collection with the assistance of bilateral and multilateral partners.

65. A number of States highlighted efforts to establish new RFMOs with the competence to regulate bottom fisheries and the impacts of fishing on vulnerable marine ecosystems in areas where they did not exist (Australia, Japan, New Zealand), including the adoption of interim measures on bottom fishing activities to protect vulnerable marine ecosystems and maintain the sustainability of deep sea fish stocks in the South Pacific (Australia, New Zealand) (see para. 84 below). Canada reported on specific initiatives in NAFO to close seamounts to fishing activity. The United States indicated that it was working within RFMOs with the competence to regulate bottom fisheries to ensure that measures were adopted to fully implement resolution 61/105.

### 2. Measures to manage fish stocks and protect vulnerable marine ecosystems

66. In paragraph 80 of its resolution 61/105, the General Assembly called upon States to take action immediately, individually and through RFMO/As, and consistent with the precautionary approach and ecosystem approaches, to sustainably manage fish stocks and protect vulnerable marine ecosystems from destructive fishing practices, recognizing the immense importance and value of deep sea ecosystems and the biodiversity they contain.

#### Measures taken by States

67. States have adopted a wide range of approaches and measures to implement paragraph 80 of resolution 61/105. Several States have established marine protected areas or representative networks of marine protected areas to manage marine activity (Australia, Canada, New Zealand, Norway, United States), including measures to establish different categories of marine protected areas and/or zones within marine protected areas where restrictions on gear and practices applied, such as areas closed to all extractive uses ("no-take zones"). Some States have also closed seamounts or submarine canyons to fishing (New Zealand, United States), including seamounts partially located in areas beyond national jurisdiction where observance by foreign vessels was voluntary (New Zealand).

68. Norway was developing a system of coastal marine protected areas for completion by 2008, aimed at protecting unique nature along its coastline. Australia was actively developing a comprehensive and large-scale network of marine protected areas in its exclusive economic zone, and it was committed to developing a regional representative network of marine protected areas by 2012. New Zealand was committed to creating a network of marine protected areas that represented the

[28] Including the UNESCO-IOC "Scientific Experts' Workshop on Biogeographic Classification Systems in Open Ocean and Deep Seabed Areas beyond National Jurisdiction", held in Mexico 22-24 January 2007, and an upcoming Portugal workshop on ecological criteria and biogeographic classification systems for marine areas in need of protection.

full range of its ecosystems and habitats by 2020, and to protect 10 per cent of its marine environment by 2010. In addition, New Zealand had announced a proposal to close 30 per cent of its exclusive economic zone, and some areas beyond, to bottom trawling and dredging. It also had developed a policy to choose sites and methods to protect marine habitats and ecosystems in the future. The United States had taken a variety of domestic actions, principally through its regional fisheries management councils, to protect vulnerable marine ecosystems. Examples included designating essential fish habitats, habitat areas of concern, "no-take" marine protected areas and national marine sanctuaries, and developing regulations to reduce the impacts of fishing activities on vulnerable benthic habitats and ecosystems. In the North-western Hawaii Islands Marine National Monument, encompassing approximately 139,793 square miles, current uses were restricted primarily to management, research and education activities, Native Hawaiian practices, a small-scale commercial bottom fishing and pelagic trolling operation and a small number of recreational trips and visits to historical sites. Fishing for bottom fish and associated pelagic species by existing permittees could continue for no longer than five years and no other commercial fishing was allowed. Canada recently designated an area of estuarine habitat as the sixth marine protected area under its Oceans Act. Namibia reported that as part of its ecosystem project that country's offshore islands had been identified as candidates for marine protected areas, and a project was under way to document and map the marine biodiversity of the region.

69. Several States made reference to management measures adopted in areas within national jurisdiction to conserve and manage fish stocks (Namibia, United States), including individual transfer quotas (New Zealand), seasonal and spatial area closures (Mexico, Morocco), and environmental impact statements to ensure the viability of fishing activity and to minimize possible impacts to endangered species and other effects on the ecosystem (Mexico). Mexico also banned bottom trawling in deep sea and in shallow waters (bays, estuaries and coral reefs). Kuwait was ensuring that fishing activity would not disturb its biodiversity, particularly corals.

70. With respect to areas beyond national jurisdiction, some States highlighted their participation in international meetings held to consider sustainable management of deep sea fisheries and protection of marine biodiversity from the adverse impacts of fishing, such as the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (New Zealand, Thailand), and regional efforts such as the GEF project on the sustainable management of the shared living marine resources of the Caribbean large marine ecosystem and adjacent regions (Suriname). In that context, some States noted the FAO initiative to develop technical guidelines for the management of deep sea fisheries in the high seas (Japan, Malaysia, New Zealand) (see paragraph 94 below). Some States also noted the meeting of the Pacific Islands Forum Leaders at Nadi, Fiji in October 2006, where participants adopted a Declaration on Deep Sea Bottom Trawling to Protect Biodiversity in the High Seas to manage this method of fishing in order to protect biodiversity in the high seas (Fiji, New Zealand).

71. Several States also reported on proposals to close areas to fishing activity in the RFMO/As of which they were a member, including a proposal in NEAFC to protect cold-water corals by closing certain areas to bottom trawling and fishing with static gear (EC), a proposal in NAFO to protect four seamount areas by closing

them to fishing activity (Canada), and a proposal in NEAFC to close five seamounts on the high seas (Norway) (see paragraphs 88 and 89).

72. Other States were participating in research on marine biodiversity or deep sea ecosystems (Namibia, New Zealand). Thailand was cooperating with the South-East Asian Fisheries Development Centre (SEAFDEC) to conduct research on the availability of fisheries resources and on vulnerable marine ecosystems in the deep sea and continental shelf.

### 3. Measures to regulate bottom fisheries in areas beyond national jurisdiction

73. In its resolution 61/105, the General Assembly called upon RFMO/As with the competence to regulate bottom fisheries to adopt and implement measures, in accordance with the precautionary approach, ecosystem approaches and international law, as a matter of priority, but not later than 31 December 2008, to regulate bottom fishing activities in areas beyond national jurisdiction.

74. Specifically, in paragraph 83 it called upon RFMO/As: (a) to assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that activities that would have significant adverse impacts were managed to prevent such impacts, or not authorized to proceed; (b) to identify vulnerable marine ecosystems and determine whether bottom fishing activities would cause significant adverse impacts to such ecosystems and the long-term sustainability of deep sea fish stocks, inter alia, by improving scientific research and data collection and sharing, and through new and exploratory fisheries; (c) to close areas to bottom fishing where vulnerable marine ecosystems were known to occur or were likely to occur, based on the best available scientific information, and ensure that such activities did not proceed unless conservation and management measures had been established to prevent significant adverse impacts on vulnerable marine ecosystems; (d) to require vessels to cease bottom fishing activities in areas where, in the course of fishing operations, vulnerable marine ecosystems were encountered, and to report the encounter so that appropriate measures could be adopted in respect of the relevant site. Paragraph 84 of resolution 61/105 also called upon RFMO/As to make the measures adopted pursuant to paragraph 83 publicly available.

75. In paragraph 85, the General Assembly called upon States participating in negotiations for the establishment of a RFMO/A competent to regulate bottom fisheries to expedite such negotiations and, by no later than 31 December 2007, to adopt and implement interim measures consistent with paragraph 83 of the resolution, and make these measures publicly available.

76. Moreover, in paragraph 86 it called upon flag States, to either adopt and implement measures in accordance with paragraph 83, or cease to authorize fishing vessels flying their flag to conduct bottom fisheries in areas beyond national jurisdiction where there was no RFMO/A with the competence to regulate such fisheries or interim measures in accordance with paragraph 85 of resolution 61/105, until measures were taken in accordance with paragraph 83 or 85 of the resolution.

77. Further, in paragraph 87, the General Assembly called upon States to make publicly available through FAO a list of those vessels flying their flags authorized to conduct bottom fisheries in areas beyond national jurisdiction, and the measures they had adopted pursuant to paragraph 86.

78. In paragraph 89 it invited FAO to establish at its next Committee on Fisheries meeting a time frame of relevant work with respect to the management of deep sea fisheries in the high seas, including enhancing data collection and dissemination, promoting information exchange and increased knowledge on deep sea fishing activities, developing standards and criteria for use by States and RFMO/As in identifying vulnerable marine ecosystems and the impacts of fishing on such ecosystems, and establishing standards for the management of deep sea fisheries.

79. In paragraph 90 it also invited FAO to consider creating a global database of information on vulnerable marine ecosystems in areas beyond national jurisdiction to assist States in assessing any impacts of bottom fisheries on vulnerable marine ecosystems, and invited States and RFMO/As to submit information to such a database on all vulnerable marine ecosystems identified in accordance with paragraph 83 of the resolution.

**Measures taken by flag States**

80. Several States reported that their vessels were not conducting bottom fishing outside areas of national jurisdiction (Malaysia, Fiji, Thailand), or that bottom fishing was only being conducted in areas where an RFMO was in place with the competence to regulate such fishing (Canada, Latvia, United States), or under development (Australia, New Zealand).

81. The United States reported that its national legislation prohibited United States high seas fishing vessels from engaging in commercial harvesting operations on the high seas without a valid permit, and that such authorization required the prior adoption of RFMO/A measures, or analyses showing no significant adverse impact on the environment or protected living marine resources or their habitat. EC indicated that it intended to adopt specific legislation whereby vessels flying the flag of a member State fishing in the high seas in areas where no RFMO/A existed were only to be authorized to fish once the flag State had carried out the assessment referred to in subparagraph 83 (a) of resolution 61/105. The regulations would also create obligations on flag States to work towards the location and protection of vulnerable marine ecosystems, to impose on vessels the duty to cease fishing and report whenever such ecosystems were found accidentally, and to provide for appropriate complementary provisions relating to monitoring and control of such activities. Norway stated that licences were not granted to its vessels to conduct bottom trawling in areas not covered by an RFMO, and that licences were granted on an annual basis and only if the vessel had fishing rights within an RFMO to which Norway was a party. New Zealand reported that it intended to implement the requirements in paragraph 86 in relation to any vessels that might engage in such fishing in the future. Canada noted that, as a party to the FAO Compliance Agreement, the effects of fishing operations on vulnerable marine ecosystems could be considered under the conditions for granting a high seas fishing licence to vessels flying its flag.

82. In addition, Australia noted that paragraph 83 provided a standard for the regulation of bottom fisheries, to manage and prevent significant adverse impacts on vulnerable marine ecosystems, and indicated that future action to address the impacts of fishing on vulnerable marine ecosystems would focus on implementation of that standard.

83. As to the recommendation that a list of high seas bottom fishing vessels be made publicly available through FAO, several States reported that they had submitted information to FAO on their vessels authorized to conduct bottom fisheries in areas beyond national jurisdiction, in accordance with the Compliance Agreement (Australia, New Zealand, Norway), while some States noted that that information was not made publicly available by FAO (EC, New Zealand). EC indicated that it was willing to submit information to FAO with a request that it be made publicly available, but that it was for FAO to accept the task of serving as the repository and publisher of the information. Australia noted that the interim measures adopted in connection with the establishment of a new regional fisheries management organization in the South Pacific Ocean required participating flag States to notify the interim secretariat of a list of vessels authorized to undertake bottom fishing, and to make the list publicly available.

**Measures taken by States participating in the establishment of competent RFMO/As**

84. Australia, Canada, EC, New Zealand and the United States provided information on their efforts to establish a new RFMO in the South Pacific Ocean, an initiative co-sponsored by Australia, Chile and New Zealand. The third meeting, held in Reñaca, Chile, from 30 April to 3 May 2007, led to the adoption of interim measures on bottom fishing activities, which would take effect on 30 September 2007. Specifically, Australia adopted measures that limited fishing effort to current levels, required a five nautical mile move-on if evidence of a vulnerable marine ecosystem was encountered and required the implementation of conservation and management measures before fishing was allowed to continue in areas where there were known or likely vulnerable marine ecosystems.[29] Australia and New Zealand also emphasized that the interim measures would be implemented domestically through regulations or high seas permit conditions.[30]

85. Japan and the United States reported on efforts to establish a new framework for the protection of vulnerable marine ecosystems and sustainable management of high seas bottom fisheries in the North-Western Pacific Ocean. At an intergovernmental meeting held in Busan, the Republic of Korea, from 31 January to 2 February 2007, Japan, the Republic of Korea, the Russian Federation and the United States agreed on a voluntary basis to take interim measures to, inter alia, limit fishing effort in bottom fisheries to the existing level, and not allow bottom fisheries to expand into new areas, while working to design and implement more permanent arrangements.[31]

86. The United States noted that the interim measures adopted by States participating in the negotiations to establish a fisheries management arrangement in the South Pacific Ocean and the North-Western Pacific Ocean were fully consistent with paragraphs 83 and 85 of resolution 61/105, and even went beyond those

[29] The adopted interim measures are located at: http://www.southpacificrfmo.org.

[30] Fiji reported that it could not confirm whether it would become a party to the proposed South Pacific RFMO, but noted that its waters were currently being used by bottom trawlers fishing in the southern waters to trans-ship catches. Fiji reported that it would take on board any management and conservation measures from the new convention, since its port was being used by vessels fishing for deep sea dwelling fish species.

[31] The adopted interim measures can be located at: http://www.fpir.noaa.gov/Library/IFD/NWPBT_InterimMeasure-1-1.pdf.

provisions by freezing both fishing effort and areas fished to existing or current levels.

87. In other areas, Namibia reported that the Benguela Current Commission was established by Namibia, South Africa and Angola in 2007 as a regional management organization in relation to BCLME. Congo reported that as a member of the Regional Fisheries Commission for the Gulf of Guinea, it was making efforts to address the provisions in paragraph 83 of resolution 61/105, in particular measures to regulate bottom fishing and to respect the deadline of 31 December 2007.

**Measures adopted by competent RFMO/As**

88. Several RFMO/As reported on measures they had taken to implement paragraph 83 of resolution 61/105 in their respective regulatory areas. NAFO closed four seamounts in the NAFO regulatory area to fishing activities until 2010.[32] The Scientific Council of NAFO had also been requested to provide the Fisheries Commission with recommendations on areas that could be fished on each seamount, and a protocol for the collection of the data required to assess such seamounts, with a view to future recommendations on management measures for those areas. It was anticipated that by 2010 sufficient scientific information would be available to reassess the closure.

89. NEAFC closed eight areas in its regulatory area to protect vulnerable marine ecosystems. However, information and data on vulnerable habitats and deep sea fisheries have not been satisfactory. The NEAFC Commission had requested the International Council for the Exploration of the Sea to continue to provide all available information on the distribution of vulnerable habitats in the Convention Area, and on fisheries activities in, and in the vicinity of, such habitats. In addition, the NEAFC Commission had requested information on the spatial and temporal extent of all current deep-water fisheries in the north-east Atlantic, with particular emphasis on activity in the regulatory area. In order to enable NEAFC to develop fishery-based management initiatives, the International Council for the Exploration of the Sea was also requested to continue efforts to develop suitable criteria for the differentiation of fisheries into possible management types and to apply these criteria to categorize individual fisheries.

90. SEAFO had also taken steps, through the adoption and implementation of conservation measures, to give effect to paragraph 83 of resolution 61/105. Specifically, SEAFO adopted conservation measures prohibiting all fishing activities in 10 prominent vulnerable habitats in the convention area. Experimental fishing would determine the patterns and process of those ecosystems and whether they could sustain fishing activities without any significant adverse impacts. The areas would remain closed to fishing, pending any further decision of the Commission.

91. GFCM reported that binding recommendations were in force with respect to fisheries restricted areas to protect three deep sea sensitive habitats, and that three additional areas were under consideration by the Scientific Committee. Fishing beyond 1,000 metres was prohibited in the GFCM convention area, and additional

[32] Limited, exploratory fishing would be permitted on the seamounts to collect data in order to better understand the effects of fishing in these areas. In addition, concentrations of corals in these areas would be required to be reported by vessel captains to ensure their protection.

scientific work was being conducted in that regard. It was also devising scientific criteria to further qualify fisheries restricted areas in order to protect sensitive habitats. IPHC reported that contracting parties had established areas closed to all fishing that included sensitive habitats for deepwater corals, sponges and rockfishes, and all Commission-regulated activities complied with those closures.[33]

92. APFIC and IATTC reported that they did not have the competence to regulate bottom fisheries. ICCAT reported that its fisheries were principally pelagic and that the use of bottom fisheries was limited to bottom longline and trap anchors, which represented a small proportion of its fishing activities. WCPFC indicated that it had no direct mandate in that respect, although some issues could be addressed through the general power given to WCPFC and its members to protect marine biodiversity in the convention area and to protect dependent and associated species. CPPS reported that its work on the issue would be conducted through the new South Pacific RFMO, which it was helping to establish. OLDEPESCA reported that it was participating in the Caribbean Large Marine Ecosystem Project and that it intended to develop, with the partnership of FAO and UNEP, the Latin American plan of action for the implementation of an ecosystem approach to fisheries management and biodiversity considerations.

93. In addition, several RFMO/As indicated that there was a variety of ways in which they would make publicly available the measures adopted pursuant to paragraph 83, including through websites and press releases (GFCM, IPHC, NAFO, NEAFC, SEAFO, WCPFC), publications (IPHC, NAFO), resolutions (WCPFC), reporting at the FAO/Committee on Fisheries meeting (GFCM, NAFO) and through general distribution to RFMOs, parties and non-parties and non-governmental organizations (SEAFO).

**Activities carried out by FAO for the management of deep sea fisheries**

94. The outcome of the Expert Consultation on Deep Sea Fisheries in the High Seas, held in Bangkok, from 21 to 23 November 2006,[34] was discussed at the twenty-seventh meeting of the Committee on Fisheries in March 2007, and resulted in recommendations that FAO continue to address deep sea fisheries issues and develop technical guidelines for the management of deep sea fisheries in the high seas, including standards and criteria for use by States and RFMO/As in identifying vulnerable marine ecosystems and the impacts of fishing activities on such ecosystems. The Committee meeting further agreed that FAO should convene an

[33] IPHC also reported that the impact of its longline halibut fishery had been assessed and determined to have low bottom impact throughout the majority of the fishery area. Longline fishing had some impact on some deep water coral and sponge communities and the areas of those communities were identified.

[34] Recommendations included promoting information-exchange and increased knowledge, convening a technical consultation on deep sea fisheries and their management and preparing technical guidelines and/or a code of conduct for the management of such fisheries. With respect to the promotion of knowledge and information, it was recommended that FAO, in collaboration with RFMOs and other relevant mechanisms, should undertake a global review of high seas deep sea fisheries; review legal issues pertaining to the management of those fisheries; conduct research aimed at the reconstitution and analysis of historical high seas deep sea fisheries data; identify and promote cost-effective ways for research on fisheries and habitats; and address the issue of defining destructive fishing in the deep sea and provide further guidance on reducing such practices.

expert consultation to prepare draft technical guidelines for the Management of Deep Sea Fisheries in the High Seas to be finalized at a technical consultation in early 2008, to allow RFMO/As and flag States to develop measures by 31 December 2008, pursuant to paragraphs 83 and 86 of resolution 61/105. The expert consultation was scheduled to be held from 11 to 14 September 2007, in Bangkok.

95. Concerning the request by the General Assembly for it to set up a global database of information on vulnerable marine ecosystems in areas beyond national jurisdiction, FAO noted that its work had traditionally been focused on managing fishing activities in relation to target stocks, with some attention to associated and dependent species, but that management of the broader impacts of fishing on the marine environment demanded an expansion of the field of its activities and competencies to more broadly cover the operational aspects of environmental impacts of, and protection for, fisheries. According to FAO, a global database on vulnerable marine ecosystems in general, and particularly in areas beyond national jurisdiction, would contribute to the establishment of appropriate fisheries policy frameworks and legislation for the protection and management of vulnerable productive ecosystems. However, the type of information that would be included in the database was not readily available to FAO and resources would be required to obtain, compile and make available existing information. FAO noted that such an undertaking would only be possible if significant extrabudgetary funding were made available, would necessarily be collaborative and would require the involvement and commitments of other relevant United Nations agencies, including UNEP and the World Conservation Monitoring Centre, and other institutions such as the Census of Marine Life.

96. In that regard, many respondents reported that they would be prepared to submit information to an FAO database on vulnerable marine ecosystems identified in accordance with paragraph 83 of the resolution (Australia, Canada, EC, Latvia, Malaysia, Namibia, New Zealand, Norway, Qatar, Suriname, United States).[35] Several RFMOs also reported on their willingness to submit information to such a database (GFCM, ICCAT, NEAFC, SEAFO), in addition to their current partnership with the FAO Fishery Resources Monitoring System (NEAFC, SEAFO). NAFO indicated that, if requested, it could submit scientific assessment data and advice and regulations regarding identified vulnerable habitats. CPPS reported that it hoped to participate in a joint CPPS/FAO working group on fisheries in areas beyond the national jurisdiction of its member States, and to create a database and establish a policy for the exchange of information on vulnerable marine ecosystems.

## D. Establishment of marine protected areas for fisheries purposes

97. In paragraph 92 of resolution 61/105 the General Assembly encouraged accelerated progress to establish criteria on the objectives and management of marine protected areas for fisheries purposes, and in that regard welcomed the proposed work of FAO to develop technical guidelines in accordance with UNCLOS on the design, implementation and testing of marine protected areas for such purposes, and urged coordination and cooperation among all relevant international organizations and bodies.

[35] EC noted that information on research relating to deep sea habitats and on measures adopted to protect them by EC is already publicly available through various EC information sources.

### 1. Activities carried out by the Food and Agriculture Organization of the United Nations

98. FAO organized a workshop on Marine Protected Areas and Fisheries Management at FAO headquarters in Rome in June 2006, at which a draft framework outline for technical guidelines on marine protected areas and fisheries management was considered. Participants agreed on key points on definitions, terminology and concepts; design, implementation and monitoring; and guidelines.

99. During the twenty-seventh session of its Committee on Fisheries, FAO was encouraged to complete its technical guidelines on the design, implementation and testing of marine protected areas in relation to fishing at the earliest opportunity. FAO reported that a technical consultation on marine protected areas was anticipated in late 2007. Complementary reviews were also foreseen, especially with respect to the assessment of marine protected areas as a tool for fisheries management and related scientific and institutional issues. FAO was also establishing a website on the topic to better cooperate with relevant organizations and experts.

### 2. Activities carried out by other relevant organizations

100. The Interim Guinea Current Commission (IGCC) of the UNDP-GEF Guinea Current Large Marine Ecosystem Programme encouraged the creation of marine protected areas and implementation of national policies on designated protected areas and other conservation measures, which would be harmonized within the region for common achievable goals. IGCC was also promoting the establishment of marine protected areas in Benin, in conformity with the technical guidelines of FAO, and it would seek the technical assistance and support from FAO, the World Conservation Union and WWF to implement and replicate the project in other countries. The UNDP-GEF/BCLME programme has invested considerable effort and funding to develop and commence implementation of the ecosystem approach to fisheries management. The approach was jointly developed by FAO and the UNDP-GEF/BCLME programme, and it would be implemented through the newly formed Benguela Current Commission. A marine conservation plan to protect biodiversity was also nearing completion, which would specify marine protected areas along certain parts of the coast, assess risks and threats to species and propose mitigation measures to reduce those threats and protect sensitive habitats.

## V. Addressing impediments to sustainable fisheries

## A. Overview of unsustainable fishing practices

101. In a recent report on the state of world fisheries, FAO indicated that, from 1974 to the present, there has been a consistent downward trend in the proportion of the underexploited and moderately exploited stocks, from almost 40 per cent in 1974 to 23 per cent in 2005, while at the same time there has been an increasing trend in the proportion of overexploited and depleted stocks, which have increased from about 10 per cent in the mid-1970s to about 25 per cent in the early 1990s, where it has remained until the present.[3] Depletion of the world's fish stocks has been caused by a combination of factors, including overcapacity in the fishing industry, illegal, unreported and unregulated fishing, the continued use of

unselective fishing gear and techniques and excessive by-catch, including by-catch of juvenile fish and destruction of marine habitats.

102. **Illegal, unreported and unregulated fishing**. Many important fish stocks have been undermined by high levels of illegal, unreported and unregulated fishing. Such practices have been perpetrated by fishing vessels that were not subject to effective flag State control and have affected both areas under national jurisdiction of coastal States and the high seas — wherever the prospects for interception were the lowest. Illegal, unreported and unregulated fishing activities have adversely impacted some coastal fishing communities in developing States that were heavily dependent on fish for food and poverty alleviation and constituted a major impediment to the achievement of long-term sustainable fisheries as called for in various international fishery instruments. Increases in demand for fish and fish products have made such unsustainable fishing practices lucrative and attractive to unscrupulous operators and vessel owners.[36]

103. **Overcapacity**. Overcapacity has contributed substantially to over fishing and illegal, unreported and unregulated fishing. Overcapacity may be defined as a situation where capacity output is greater than target output.[37] It produces a situation where fleet fishing capacity would exceed the level required to ensure the long-term sustainability of the stock and the fisheries. One of the major causes of overcapacity in most marine capture fisheries is the payment of subsidies in the fishing industry. Such subsidies have primarily tended to either reduce the cost of producing and marketing fish (cost-reducing subsidies) or to increase the revenue from producing and marketing fish (revenue-enhancing subsidies).[38] Fishing overcapacity has also been known to contribute to illegal, unreported and unregulated fishing, particularly in cases where excess capacity has been exported through reflagging to States operating "flags of non-compliance".

104. **Fisheries by-catch and discards**. A FAO study of by-catch and discarding estimated that from 17.9 and 39.5 million tons of fish were discarded annually from commercial fisheries, representing approximately one quarter of the world's total fish catch. The large quantity of juvenile fish caught as by-catch by non-selective fishing gear, along with other non-target species, could lead to growth over fishing and recruitment over fishing. The significance of the waste of fish from discarding has increased with the realization that many fisheries were either fully or overexploited, and that discarded fish could serve as a valuable food source to millions of people, particularly in developing countries where there is a high demand for protein.[39]

105. **Large-scale pelagic drift-net fishing**. More than one decade following the adoption of General Assembly resolution 46/215 implementing a global moratorium

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[36] Progress Report on the Implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Thirty-second Session, FAO Conference, Rome, 29 November-10 December 2003 (C 2003/21) (Rome, 2003).

[37] FAO Fisheries Technical Paper 445, *Measuring Capacity in Fisheries, The Measurement and Monitoring of Fishing Capacity: Introduction and Major Considerations* D. Gréboval (Rome, FAO, 2003), p. 5.

[38] FAO Fisheries Report No. 638 (FIPP/R638), *Report of the Expert Consultation on Economic Incentives and Responsible Fisheries, Rome, 28 November-1 December 2000* (Rome 2000), paras. 12, 37.

[39] FAO Fisheries Technical Paper 370, *"By-catch management and the economics of discarding"* (Rome, 1997) p. 1.

on the use of large-scale pelagic drift-net fishing on the high seas, because of its adverse impacts on marine living resources, there are still reports from relevant non-governmental organizations of the use of large drift nets in some regions of the world.

## B. Measures to address unsustainable fishing practices

### 1. Illegal, unreported and unregulated fishing

#### (a) Measures taken by States

**Legal and policy framework and cooperative arrangements to combat illegal, unreported and unregulated fishing**

106. Australia, Canada, EC, Ecuador, Namibia, New Zealand, Nicaragua, Spain and the United States reported that they had developed and implemented national plans of action against illegal, unreported and unregulated fishing. In the case of Australia, Namibia and New Zealand, those plans generally provided for measures to be implemented by all States, flag States, port States and coastal States, as well as market-related measures, to address illegal, unreported and unregulated fishing and, in the case of New Zealand, where appropriate, measures to support the special requirements of developing States. Nicaragua indicated that implementation of its national plan of action had been limited owing to a lack of resources. Malaysia, Mexico, Peru and Thailand stated that they were in the process of formulating a national plan. Australia advised that a regional plan of action was being developed in the South-East Asian region to promote responsible fishing practices, including combating illegal, unreported and unregulated fishing. In addition, Australia and Namibia indicated that their current domestic legislation had adequate provisions to address illegal, unreported and unregulated fishing, and in the case of Ecuador, Mexico and Namibia, such legislation included sanctions to combat such practices. Some legislation provided strict controls over the activities of nationals fishing on board vessels flying the flag of foreign States, both on the high seas and in areas under the national jurisdiction of other States.[40] Norway indicated that it was in the process of developing a new ocean resource law that would target illegal, unreported and unregulated fishing, including measures concerning nationals and beneficial owners. Morocco also pointed out that its current legislation addressed illegal, unreported and unregulated fishing in areas under national jurisdiction, as it included provisions that impose a prison sentence and/or fine on foreign nationals conducting unauthorized fishing in areas under the national jurisdiction of coastal States. However, it did not cover illegal, unreported and unregulated fishing on the high seas.

107. A number of States have also developed MCS and enforcement systems to ensure compliance with conservation and measures adopted in areas under their national jurisdiction and in high seas areas under the management of RFMOs. Australia implemented a strong package of MCS measures to ensure compliance by vessels flying its flag with conservation measures both in its fishing zone and on the high seas. Canada operated an aerial surveillance programme that allowed real-time

[40] EC, New Zealand: The Fisheries Act (1996); Antarctic Marine Living Resources Act (1981); Fisheries (South Tasman Rise Orange Roughy Fishery) Regulation 2000 and Fisheries (Southern Bluefin Tuna Quota) Regulations (2000), Latvia, Spain: Royal Decree 1134/2002.

monitoring of fishing activities both within and beyond its Exclusive Economic Zone on the Atlantic and Pacific coasts. Kuwait conducted regular full patrolling in areas under national jurisdiction to combat illegal, unreported and unregulated fishing and was also considering the introduction of global positioning system-based VMS to obtain accurate locations of fishing vessels. The MCS system of Fiji was comprised of an observer programme, data management, licensing regime, operation of surface vessels and aircraft and inspection of vessels berthing at its ports. The MCS system of Namibia was based on the operation of patrol vessels, aircrafts and vehicles along its coastline, the monitoring of all landing points and the implementation of fisheries observer coverage on board each licensed vessel. Mexico required vessels flying its flag to land their catches in a Mexican port and to report to the fisheries authorities upon their arrival in ports. Malaysia, Peru and Thailand reported that they had an effective MCS system which was used to enforce fisheries regulations in areas under their national jurisdiction. Congo had established joint commissions with States fishing in areas within its national jurisdiction under access agreements. Suriname was in the process of establishing a coastguard unit to combat illegal, unreported and unregulated fishing.

108. In addition, Australia, Congo, EC, Ecuador, Morocco, Namibia, New Zealand, Nicaragua and Norway have initiated cooperative efforts in the fight against illegal, unreported and unregulated fishing, including through mutual assistance, exchange of information, data collection and cooperative enforcement with neighbouring coastal States in respect of their respective maritime areas or in identifying their respective nationals suspected of being engaged in illegal, unreported and unregulated fishing activities. Cooperation among States on MCS also included coordination of individual maritime surveillance capabilities and cooperative surveillance and enforcement activities in a whole region, as reported by Australia and New Zealand, or in areas of competence of RFMOs in the case of Canada, as well as coordinating regional responses to instances of illegal, unreported and unregulated fishing, reported by Kuwait and Namibia, including joint patrols with neighbouring States to reduce illegal, unreported and unregulated fishing within their exclusive economic zones, as indicated by Fiji and Malaysia. Further, cooperation included information-sharing on enforcement matters,[41] bilateral and multilateral arrangements that provided for cooperative on-the-water surveillance and enforcement and sharing of illegal, unreported and unregulated fishing information,[42] as well as participation in a regional VMS programme in regions where fishing vessels operate under a multilateral access arrangement.[43] Australia, Canada, Congo, EC and some member States, Fiji, Mexico, New Zealand, Nicaragua, Norway, Peru, Suriname, Thailand and the United States were already members of the voluntary International Monitoring, Control and Surveillance Network or expected to join the Network in the near future. Those States would all support the enhancement of the capabilities of the Network in order to better assist its members.[44] Congo, EC, Fiji, Mexico, New Zealand, Norway and the United States also expressed their commitment to implement the 2005 Rome Fisheries Ministerial Declaration on illegal, unreported and unregulated fishing.

[41] Australia, EC, Fiji, Namibia, New Zealand, Thailand, United States.

[42] Australia.

[43] United States.

[44] The International MCS Network website is located at: http://www.imcsnet.org.

109. In view of the importance of data on landings and catch quotas in the fight against illegal, unreported and unregulated fishing, a number of States, as flag States or port States, have taken measures to share such data directly[45] or through RFMOs of which they were members[46] and through regional cooperation.[47] New Zealand indicated that it had also submitted to FAO catch data on an annual basis. EC pointed out that its member States were required by Community regulations to submit on an annual basis statistical data to the European Commission. Those data were currently available on the Internet.[48]

**Implementation of flag State duties**

110. A number of respondents reported that they had enabling legislation that applied strong control over fishing vessels flying their flag and provided an effective tool against illegal, unreported and unregulated fishing.[49] Such legislation incorporated relevant provisions of international instruments addressing flag State duties,[50] such as States' obligation to maintain a register of fishing vessels flying their flags authorized to fish on the high seas, the obligation to require fishing licences for such activities, gear restrictions, mandatory reporting, observer programmes, boarding and inspection regimes, control of trans-shipment, including prohibition of trans-shipment-at-sea, and a requirement for vessel monitoring systems (VMS).[51] In that respect, the United States indicated that it was planning to expand its national VMS coverage to 8,000 vessels by 2009.

111. Several States also required vessels flying their flags to obtain national authorizations,[52] as well as authorization from relevant foreign States, before they were allowed to fish in areas under the national jurisdiction of those foreign States.[53] New Zealand stated that it had implemented a full range of MCS tools to control fishing vessels before, during and after the conduct of all fishing operations. In addition, Fiji, Morocco, New Zealand, Norway and the United States had adopted domestic laws that precluded vessels flying their flags from providing support to illegal, unreported and unregulated fishing activities. EC indicated that it was considering the possibility of adopting the same measures.

112. Concerning the issue of reflagging, Mexico stressed that its domestic legislation prohibited reflagging. Other States indicated that they prohibited the reflagging of fishing vessels flying their flags to a State with a history of illegal, unreported and unregulated fishing,[54] or to a State that was neither a party to the

[45] Norway.
[46] Malaysia, Morocco, New Zealand, Peru.
[47] Fiji.
[48] EUROSTAT website: http://epp.eurostat.ec.europa.eu.
[49] Australia; EC Common Fisheries Policy: Council Regulation 2371/2002; Ecuador; Latvia; Namibia: The Marine Resources Act (2000); New Zealand: The Fisheries Act (1996); United States: the Lacey Act.
[50] Australia, Canada, EC, Ecuador, Fiji, Latvia, Malaysia, Mexico, Morocco, Namibia, New Zealand, Nicaragua, Norway (in the SEAFO Convention area), Peru, Suriname, United States, Uruguay.
[51] Australia, Congo, EC, Ecuador, Kuwait, Malaysia, Namibia, New Zealand, Thailand, United States, Uruguay.
[52] Canada, Ecuador, Morocco, Norway.
[53] Australia, Canada, EC, Fiji, Mexico, Namibia, New Zealand, Norway, United States: Lacey Act.
[54] EC member States.

Agreement nor a party to the FAO Compliance Agreement.[55] On the other hand, some States pointed out that reflagging of fishing vessels was permitted under their national legislation,[56] when it was not used to circumvent national or international conservation and management measures[57] or when it was approved by the local authorities responsible for the registration, manning and seaworthiness of vessels.[58] Mexico reported that it did not have any regulatory framework that could prevent vessels flying its flag from reflagging in States operating "flags of convenience".

113. With reference to measures to eliminate illegal, unreported and unregulated fishing by vessels flying "flags of convenience", and the requirement of a "genuine link" between a State and fishing vessel flying its flag, a number of States drew attention to the importance of such a genuine link in the fight against illegal, unreported and unregulated fishing. New Zealand reported that it was working through FAO, IMO and RFMOs to address those issues, including through the listing of illegal, unreported and unregulated fishing vessels operating in areas under the competence of CCAMLR and WCPFC. Fiji indicated that the matter was currently under consideration within the WCPFC. EC considered that "genuine link" could only be established where the flag State had the ability to enforce applicable fisheries laws, regulations and internationally agreed conservation and management measures, despite a presumption under international law that vessel registration carried with it the establishment of a genuine link. Norway indicated that the issue of control of fishing vessels on the high seas and incorporation of the concept of a "genuine link" was expected to be addressed in its new oceans management legislation. Canada, EC and Norway stated that they supported the development of flag State performance criteria applicable to the fisheries context at the regional or global level in order to assess flag State performance on the basis of such criteria. Morocco pointed out that the problem of "flags of convenience" did not arise in its case because the link between the State of Morocco and the vessels flying its flag was "genuine" by reason of the strict conditions imposed on fishing vessels wishing to fly its flag.

114. Several States were also contributing to the enhancement of management regimes in RFMOs of which they are members, by requiring fishing vessels flying their flags to comply with RFMO regulations,[59] and by communicating to those organizations the number of their registered vessels fishing in their areas of competence.[60] Norway prohibited vessels flying its flag from fishing in areas managed by RFMOs of which it was not a member. New Zealand implemented a similar ban unless it had determined, in consultation with the relevant RFMOs, that such fishing activities would not undermine the relevant conservation and management measures. Canada, Ecuador, Mexico, New Zealand and Nicaragua reported that violations of the terms of fishing licences and high seas fisheries conservation and management measures were subject to severe penalties.

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[55] Norway.

[56] Malaysia, New Zealand.

[57] New Zealand.

[58] Ecuador, Fiji.

[59] Australia, Canada, EC, Ecuador, Fiji, Latvia, Mexico, Namibia, New Zealand, Norway, Thailand, United States, Uruguay.

[60] Malaysia, Mexico, Morocco, Peru, Uruguay.

115. A number of respondents also reported that they had established positive[61] and negative[62] lists of vessels fishing in areas under the competence of relevant RFMO/As in order to verify compliance with conservation and management measures established by those organizations and arrangements and identify illegal, unreported and unregulated fish products. Australia, EC, Namibia, New Zealand, and Norway had also taken measures to improve coordination among members of RFMOs in sharing and using the information and strengthening those lists, and Australia also included support vessels that supplied and refuelled illegal, unreported and unregulated fishing vessels, information on past and current owners, including beneficial owners, as well as photographs of vessels. Australia, Canada, EC, Fiji, Malaysia, Mexico, New Zealand, Nicaragua, Thailand and the United States indicated that they would support the development within FAO of a comprehensive global record of fishing vessels.

**Implementation of port State measures**

116. Canada, EC, Ecuador, Fiji, Latvia, Morocco, Norway, Peru, Spain and the United States reported that they had taken measures to close their ports to illegal, unreported and unregulated fishing vessels in order to deny fish or fish products originating from illegal, unreported and unregulated fishing activities access to their markets. Foreign fishing vessels entering Namibian and Uruguayan ports were thoroughly inspected and Canada required such vessels to provide vessel data and other information to ensure that they had not contravened national fishery regulations, fishery regulations of other States or conservation and management measures adopted by RFMOs. Morocco and New Zealand required foreign fishing vessels seeking to enter their ports to obtain prior approval; Canada and Namibia required advance notification; and Canada and Mexico subjected them to inspection if they sought to trans-ship or land their catches. Canada reported that suspected fishing vessels were reported to the flag State and, as appropriate, to the relevant RFMO or coastal States where illegal, unreported and unregulated fishing activities occurred. EC member States indicated they had implemented port measures in respect of fishing activities carried out under the purview of some RFMOs, but they were considering the possibility of adopting such measures on a general basis.

117. In addition, Canada, EC, Ecuador, Fiji, New Zealand, Norway, Spain and the United States indicated that they were working through FAO and RFMOs as well as other relevant organizations to enhance port State control to combat illegal, unreported and unregulated fishing and stressed that they supported the development of a legally binding instrument on the rights and obligations of port States, on the basis of the FAO model scheme. Norway has recently enacted new legislation to implement the FAO guidelines and NEAFC regulations on port State control. Peru was currently developing port State measures on the basis of the FAO model scheme. New Zealand had taken a leading role to adapt at the regional level the FAO model scheme on Port State Measures to the WCPFC and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) regional context. EC and Norway indicated that they had taken a leading role in the adoption by NEAFC of comprehensive port State measures. They had also encouraged the implementation of integrated port State inspection and control schemes in RFMOs such as ICCAT,[63]

[61] Australia, EC, Namibia, New Zealand, Thailand.

[62] Australia, EC, Morocco, New Zealand, Norway, Thailand, United States.

[63] EC, Ecuador.

the Indian Ocean Tuna Commission (IOTC)[64] and NAFO[65]. In addition, EC had signed a partnership agreement with the Indian Ocean Commission and its members to fight against illegal, unreported and unregulated fishing in the Southern Indian Ocean region. However, Malaysia expressed the view that the FAO model scheme was still new and needed to be fully comprehended before it could be adopted as a building instrument.

**Implementation of trade-related measures**

118. A number of States indicated that they supported the implementation of trade monitoring schemes in all RFMOs of which they were members[66] or observers,[67] and expressed their readiness to cooperate with relevant intergovernmental organizations and RFMOs with a view to adopting appropriate multilaterally agreed trade-related measures, consistent with World Trade Organization rules.[68] For instance, Australia, Norway and Peru have implemented catch and trade-tracking measures and other agreed market-related measures adopted by such RFMOs as CCAMLR and in the case of Norway only, ICCAT. EC was promoting the adoption by RFMOs of catch certification schemes enabling the effective control of fishery products from the conditions of their catches to their entry to the markets. Spain stated that its domestic legislation required the labelling of fresh fish and frozen fish products throughout the marketing chain. Morocco kept traceability registers for landed catches at its on-land facilities with a view to ascertaining the lawful origin of fish and fish products. Kuwait pointed out that it only imported fish and fish products that had been caught in conformity with international conservation and management measures. The United States was in the process of establishing an international trade data system to facilitate the collection of information pertaining to country, harvesting vessel authorizations and areas of catch for seafood products imported into the United States.

**(b) Measures adopted by regional fisheries management organizations**

119. Many RFMOs have increased their efforts to combat illegal, unreported and unregulated fishing owing to an increased awareness of the adverse impacts of such activities on their management regimes. As part of their measures to address illegal, unreported and unregulated fishing, several RFMOs indicated that they had developed open databases containing data on landings and catch quotas for the purpose of enhancing the effectiveness of their management. ICCAT reported that compliance tables containing initial catch quotas, adjusted quotas and current catches were compiled and made publicly available. Catch and landing databases, which included estimates of illegal, unreported and unregulated fishing activities, allocations of quotas and catch limits, were available to the public on the ICCAT website. In addition, contracting parties were requested to report to ICCAT trade and landing data of tuna and tuna-like species; and for those that fished for bluefin tuna in the Eastern Atlantic and Mediterranean, to report periodically their catches to ICCAT during the fishing season. IATTC, IPHC, NAFO and SEAFO reported that they maintained on their websites open databases on landings and catch quotas,

[64] EC.
[65] EC, Norway.
[66] Morocco, New Zealand, United States.
[67] EC member States, New Zealand.
[68] Namibia.

catch statistics and other relevant data regarding fish stocks covered by their respective conventions. Catch and effort data were being collected by GFCM and the related database was being established. GFCM also collected information on illegal, unreported and unregulated fishing activities through the positive list and negative list of fishing vessels, and stored them in the corresponding databases. NASCO made publicly available the annual reports of its contracting parties on unreported catches and the measures taken to minimize them. CPPS stated that efforts were being made to ensure that the national plans of action against illegal, unreported and unregulated fishing of member States provided for catch monitoring. APFIC indicated that it did not intend at the present time to establish such databases, however, it would support initiatives by member States to develop a regional information exchange mechanism.

120. In addition, a number of RFMOs have also adopted port State inspection schemes,[69] negative listing of illegal, unreported and unregulated fishing vessels,[70] the prohibition of trans-shipments at sea,[71] and were building awareness among member States on steps to be initiated[72] to address illegal, unreported and unregulated fishing. OLDEPESCA planned to take measures that would provide for exchange of information on activities of fishing vessels kept in the registry of member States and WCPFC intended to implement port State measures that covered data on landings.

121. As a further means to improve MCS and compliance with and enforcement of conservation and management measures, several RFMOs have taken measures or expected to take measures to ensure that States exercise effective control over vessels flying their flags fishing in their respective regulatory areas. Since 2005, GFCM has implemented general guidelines for a GFCM control and enforcement scheme, reinforced by specific recommendations to flag States and complemented by the establishment of a Compliance Committee. ICCAT adopted a recommendation addressing the duties of contracting parties and cooperating non-contracting parties, which specified the duties of flag States to control their vessels. Additional measures included integrated monitoring and trans-shipment controls. An ICCAT working group on integrated monitoring and control measures was scheduled to meet in 2007 for further discussion of the issue. SEAFO and WCPFC stated that implementation of flag State controls was enshrined in their respective conventions. The SEAFO convention required flag States to ensure that vessels flying their flags complied with conservation and management measures and refrained from any activity which undermined the effectiveness of such measures; to authorize vessels to fish in the convention area only if they were able to exercise effective control over those vessels; and to ensure that vessels flying their flags did not conduct unauthorized fishing in areas adjacent to the convention area. In addition, in 2006 SEAFO adopted a specific regulation to give effect to those flag State obligations.

122. In 2004, WCPFC adopted a conservation and management measure concerning the record of fishing vessels and authorization to fish that required the establishment of a WCPFC record of fishing vessels and obligated member States to prohibit

[69] NEAFC.
[70] IATTC, ICCAT, NEAFC, SEAFO, WCPFC.
[71] SEAFO.
[72] WECAFC.

vessels not on the record from fishing in the convention area. In addition, a WCPFC regulation adopted in 2006 on high seas boarding and inspection required flag States to cooperate in enforcing such measures in respect of their vessels on the high seas and in areas under the jurisdiction of other members. NEAFC pointed out that the responsibilities of contracting parties as flag States were spelled out in the NEAFC 1999 scheme of control and enforcement. The results of monitoring, enforcement and compliance were evaluated by its Permanent Committee of Control and Enforcement and reported annually to the NEAFC Commission. OLDEPESCA intended to carry out a satellite-based vessel monitoring, control and surveillance systems and landing sites control seminar. NAFO indicated that a future revision of its convention would contain a new article detailing flag State duties, including guidelines on flag State control.

123. On the other hand, some RFMOs reported that they did not plan to develop guidelines on flag State control of fishing vessels. IPHC indicated that its two member States maintained comprehensive data systems for monitoring catches by their vessels, and there were no fisheries by non-member nations. IATTC stated that such guidelines were not needed, in view of the fact that IATTC contracting parties and cooperating non-contracting parties had demonstrated effective control of vessels flying their flags fishing in the convention area. It noted, however, that Cambodia, Georgia and Indonesia had not demonstrated such control, as vessels flying their flags had been conducting illegal, unreported and unregulated fishing in the IATTC convention area.

124. Several RFMOs have also implemented measures to trace fish and fishery products to enable importing States to identify fish and fish products caught by illegal, unreported and unregulated fishing. IATTC and ICCAT adopted statistical document programmes for fishery resources under their management to assist in identifying fish and fish products that might have been caught in contravention of their conservation and management measures. ICCAT pointed out that its multi-annual recovery plan for bluefin tuna in the Eastern Atlantic and the Mediterranean contained additional market measures, including the possibility of prohibiting trade, landing, imports and exports of catches which were caught in contravention of conservation and management measures. NAFO conservation and enforcement measures required product labelling, recording of catch and stowage that allowed separation of stocks when they were landed. NEAFC established a catch and effort reporting system in addition to the VMS that was enhanced by a port State control system to allow the tracing of catches. It was also examining the development of systems for identifying fish and tracing it on the market, including the feasibility of establishing procedures that would allow the origin of the fish to be determined and its identity to be verified at different stages of the marketing chain.

125. WCPFC reported that it was considering the adoption of statistical documentation schemes. OLDEPESCA was commissioning a study to identify the markets where illegal, unreported and unregulated fish products were traded and GFCM was expecting to organize in 2007 a joint technical meeting with FAO to consider issues of traceability of fish and fish products. CPPS and IPHC indicated that tracking fish and fishery products was the responsibility of member States. CPPS indicated that RFMOs should increase member States' knowledge of eco-labelling of marine fishery products through workshops.

**(c) Measures adopted by relevant organizations**

**Activities carried out by FAO**

126. FAO reported that during the reporting period its governing bodies had not issued any specific directive to discuss the development of guidelines on flag State control. However, it had undertaken activities, consistent with its mandate and normative programmes, related to the exercise by States of flag State responsibility over fishing vessels flying their flags. Those included the convening of an expert consultation on the use of monitoring systems and satellites for fisheries monitoring, control and surveillance, at FAO headquarters in October 2006; participation in a meeting on genuine link called for by General Assembly resolution 58/14; and participation in a conference on flag State responsibilities as a key element in international fisheries governance, convened by the European Economic and Social Committee in January 2007.

127. With particular reference to activities concerning the traceability of fish and fish products, FAO referred to the work of its Subcommittee on fish trade in 2006 regarding the harmonization of catch documentation. It agreed that future work on the issue should move from technical approaches to a broader scope that could contribute more effectively to the conservation and management of fishery resources, consistent with the objectives established under the IPOA-IUU.

**Activities carried out by other relevant organizations and bodies**

128. A number of organizations have carried out activities to combat illegal, unreported and unregulated fishing. In 2004, the Organization for Economic Cooperation and Development convened a workshop on illegal, unreported and unregulated fishing activities, which produced two substantive publications. Four UNDP-GEF projects have carried out activities towards enhancing MCS to combat illegal, unreported and unregulated fishing, including promoting flag State duties, port State control and trade-related measures. In March 2006, IGCC held a regional seminar on flag State implementation and port State control, in collaboration with IMO, to review the GCLME region's maritime infrastructure. The Pacific Islands Ocean Fisheries Management project was supporting activities to enhance national Pacific small island developing States (SIDS) compliance capacities and programmes, including development of national plans of action to fight IUU, improving established regional MCS coordination, and providing strategies for the WCPFC compliance programme for Pacific SIDS. The BCLME programme was closely linked to the Southern Africa Development Cooperation programme on MCS through information exchange, knowledge-sharing, training and capacity-building. The YSLME project focused on enhancing flag State duties and enforcement in regional fisheries governance. The future strategic action programme for the Yellow Sea would highlight the need for improved compliance with all existing fishery agreements, harmonization of national fisheries laws as well as developing new agreements.

129. In addition, both IGCC and BCLME were involved in eco-labelling initiatives in partnership with other relevant organizations and by funding projects in relation to marketing, sourcing and tracing of fish and fish products.

130. IMO indicated that fisheries management was outside the competence of the organization. It believed that there was no legal basis for extending existing port

State control provisions in its instruments to fishing vessels, as the 1993 Torremolinos Protocol and the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel were not yet in force. IMO further indicated that the 2005 ad hoc meeting of senior representatives of international organizations on "genuine link" noted that it was not within the competence of the participating organizations to provide a definition of "genuine link" but that their role was rather to address the way in which the genuine link requirement regulated by UNCLOS should be implemented to strengthen compliance with the duties primarily imposed by UNCLOS and other international instruments upon flag States. IMO was to convene in Rome, from 16 to 18 July 2007, the second joint IMO/FAO ad hoc working group on illegal, unreported and unregulated fishing and related matters.

**(d) Activities carried out by non-governmental organizations**

131. The Marine Stewardship Council (MSC) had developed programmes to exclude products from illegal, unreported and unregulated fishing from entering the supply chain, which have contributed significantly to reducing incentives for such activities. Under the programmes, only fisheries demonstrating compliance with national, regional and global regulations could be certified to the MSC standard. The MSC label on a fish product provided assurance to businesses that the product did not originate from illegal, unreported and unregulated fishing.

132. The International Ocean Institute suggested that the international legal framework for cooperation to combat illegal, unreported and unregulated fishing on the subregional, regional and global levels should be enhanced by alerts (early warning system), trade-related measures, enforcement against all those who benefit from illegal, unreported and unregulated fishing as well as raising the level of coherence in terms of compliance with conservation and management measures among all RFMO members.

**2. Fishing overcapacity**

133. Several States reported that they had taken measures to implement their commitments to reducing the capacity of the world's fishing fleets to levels commensurate with the sustainability of fish stocks. Ecuador, Nicaragua and the United States indicated that they had adopted their NPOA-Capacity. Malaysia, Mexico, Namibia and Thailand were currently developing national plans of action and were also initiating processes to reduce fishing capacity. Namibia indicated that, pending the finalization of its NPOA-Capacity, it was controlling the number of vessels through quota allocation and licensing. Morocco indicated that it had pursued a policy of limiting its fishing capacity even before the adoption of the FAO IPOA-Capacity. In 2005, Australia introduced a fisheries structural adjustment domestic package, which included a fishing concession buyout focusing on reducing fishing capacity in Australian waters and was complemented by several fisheries management plans that limited fishing and fleet capacity at sustainable levels through input and output controls. For areas beyond national jurisdiction, capacity reduction had been carried out through implementation of RFMO regulations establishing capacity reduction. Qatar prohibited the issuance of new licences to fishing vessels and would only revise the number of vessels authorized to fish on the basis of stocks assessment. Kuwait cancelled several fishing licences to protect shrimp stocks and compensated the fishing vessel owners involved. Suriname fixed

annually the maximum limits of fishing licences in collaboration with all stakeholders, and such limits did not endanger the fish populations. Congo granted fishing licences following the determination of an annual total allowable catch, and quotas were apportioned on the basis of the availability of the resource rather than the fishing capacity of vessels.

134. The United States implemented fishing capacity reduction through buyout programmes and a programme, concerning limited access privilege, which gave eligible holders the exclusive privilege of harvesting a quantity of fish. Both EC and Malaysia had exit programmes to reduce fishing capacity. EC indicated that its entry-exit programme established within the framework of the Common Fisheries Policy (see A/60/189, para. 78) contributed to a continuous decrease in EC global capacity indicators. Canada implemented public funded licence retirement programmes and early retirement programmes to remove fishing capacity in its inshore commercial Atlantic groundfish fisheries and Pacific salmon fisheries. On the other hand, it had not implemented a licence retirement programme for its Atlantic offshore fisheries sector, relying instead on a fleet reduction capacity carried out through an enterprise allocation programme, where the transfer of quota allocations and disposal of vessels were governed by self-adjusting market mechanisms. Norway's capacity reduction was conducted through its structural quota system, which allowed fishing vessel owners to merge their quotas on a given number of vessels, on the condition that vessels stripped of their quotas were scrapped. A decommissioning scheme existed also for Norwegian small coastal vessels excluded from the system. New Zealand stated that its approach to fisheries management did not use capacity controls, relying instead on output controls (see paras. 81 and 82).

135. Most respondents (Australia, Congo, EC, Ecuador, Namibia, New Zealand, Norway, Peru, Thailand, United States) stressed that they did not provide subsidies to their fishing sectors. Latvia indicated that it had public financial contributions available for fisheries in accordance with the Common Fisheries Policy and EC legislation, but it did not allow any more public financial contributions for the construction of new vessels. Kuwait indicated that it did not provide subsidies that contributed to overcapacity and illegal, unreported and unregulated fishing. Malaysia and Mexico agreed that subsidies granted to the fishing sector should not lead to overcapacity and overfishing but at the same time, Malaysia affirmed that the social impact of any measure on small-scale artisanal fisheries had to be taken into account. Uruguay reported that it was a poor coastal State that had yet to fully develop and use its fishery resources.

### 3. By-catch and discards

#### (a) Measures taken by States

136. Many States have implemented measures to reduce by-catch, catch by lost or abandoned gear, fish discards and post-harvested losses. Australia, Canada, Congo, Fiji, Kuwait, Malaysia, Mexico, Morocco, Namibia, New Zealand, Nicaragua, Norway, Spain, Thailand, Qatar, United States and Uruguay reported that they had established fishery regulations aimed at minimizing non-target catches. In particular, Australia's 1999 Environment Protection and Biodiversity Conservation Act required fisheries to minimize their catch of non-target species, mitigate interaction with protected species and ensure the protection of critical habitats of protected

species. The United States established by-catch reduction measures under its North-east Multispecies Fishery Management Plan, and it was currently finalizing several major regulations to reduce by-catch in a number of designated fisheries. Namibia's fishery regulations prohibited fishing vessels from going to sea without observers on board to monitor fishing activities and the level of by-catch. Measures adopted pursuant to Canada's Coastal Fisheries Protection Act also required observers on board fishing vessels who could mandate the closing of fishing areas where the level of by-catch of prohibited species and juvenile fish was too high. In addition, Canada operated a gill net tagging programme that required the retrieval of lost gill nets and the reporting of lost or abandoned gill nets, and allowed the authorities to take enforcement action should the owner of lost gill nets fail to report gear loss. New Zealand set total allowable commercial catch limits for by-catch species and prohibited discarding of by-catch under its quota management system based on individual transferable quotas. Both Namibian and New Zealand regulations provided for financial penalties to deter high levels of by-catch. Norway, Peru and Thailand also prohibited the discarding of fish by-catch since it could be destined for other uses. EC was considering the adoption in 2008 of a new policy with the ultimate objective of reducing unwanted by-catch and eliminating discards.

137. Malaysia and Mexico have established zones reserved for selected fisheries, including artisanal fisheries, and New Zealand did the same for indigenous traditional fisheries.

138. With particular reference to the protection of juvenile fish, the United States stressed that it had one of the most sophisticated mechanisms for communicating information on areas of high concentration of juvenile fish and it was being implemented in fishing grounds off the coasts of Washington, Oregon and Alaska. Mexico stated that researchers from its National Fisheries Institute had the task of identifying the concentration of juvenile fish to facilitate decision-making by national fishing authorities and competent RFMOs. Fiji and Qatar had established marine protected areas and Thailand was in the process of doing so to protect spawning grounds and marine biodiversity. Kuwait had established closed seasons for fishing activities during the spawning seasons of major fin fish and shrimps and prohibited fishing in a three mile area from the coastline to protect juvenile fish and nursery grounds. Norway had closed both on a permanent and an ad hoc basis areas with high concentrations of juvenile fish. Canada and Peru had reporting requirements that ensured information about closed areas due to moratoriums or the presence of large numbers of juvenile fish was widely communicated. Such areas could be closed temporarily, in the case of Peru, or permanently, in the case of Canada.

139. In addition, Australia, Kuwait, Malaysia, Mexico, New Zealand, Norway, Peru and the United States reported that they had provided support for studies and research aimed at reducing or eliminating by-catch of juvenile fish, including through the development of research programmes for by-catch reducing devices and juvenile trash excluder devices. Canada was researching the identification of areas and/or times where juveniles congregated. Uruguay and the United States indicated that they were carrying out joint studies on the effects of circle hooks on the by-catch of sea turtles as well as the effects of other mitigating devices on seabird by-catches.

140. A number of States also indicated that they were participating in regional and subregional organizations or were parties to agreements with the mandate to conserve non-target species, such as the Agreement on the International Dolphin Conservation Programme,[73] CCAMLR,[74] CCSBT,[75] the Inter-American Convention for the Protection and Conservation of Sea Turtles,[76] IATTC,[77] ICCAT,[78] the Memorandum of Understanding on the Conservation and Management of Marine Turtles, and their Habitats of the Indian Ocean and South-East Asia,[79] IOTC,[80] SEAFDEC,[81] SIOFA,[82] and WCPFC.[83] New Zealand, Peru and Spain were parties to the Agreement on the Conservation of Albatrosses and Petrels. Canada, Mexico, Morocco, Thailand, Spain, Suriname and the United States also reported that they were implementing measures recommended in the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.[84]

141. In addition, several States reported that they had already adopted their NPOA-Sharks (Australia, Ecuador, Malaysia, Mexico, Namibia, New Zealand, Thailand, United States) or were in the process of developing them (Fiji, Morocco, New Zealand). Suriname indicated that it was expecting to revise its NPOA-Sharks. A number of States had also developed their NPOA-Seabirds (Canada, New Zealand, United States) or were in the process of doing so (Australia, Namibia). Spain pointed out that in 2002 it adopted a fishery regulation which reduced the incidental mortality of seabirds in logline fisheries.[85]

**(b) Measures adopted by regional fisheries management organizations and arrangements**

142. Several RFMO/As have initiated actions to reduce by-catch and discards in fisheries conducted within their regulatory areas, including through the implementation of specific programmes to address the issue of by-catch and discards, the adoption of specific measures to reduce by-catch, and the convening of workshops to promote incidental catch reduction. In addition, a number of RFMOs (GFCM, IATTC, ICCAT, IPHC, NAFO, NEAFC, SEAFO, WCPFC) have adopted fishery regulations that implement minimum fish size and mesh size, permissible gear, use of fishing aggregating devices, closed areas and closed seasons to minimize the ecological impact of fisheries on marine habitats and non-target and associated species.

143. Some RFMOs indicated that they had mechanisms for communicating information on areas of high concentration of juvenile fish. ICCAT, IPHC and

[73] Ecuador, Mexico, Peru, United States.
[74] Australia, New Zealand.
[75] Australia, New Zealand.
[76] Mexico, Peru, United States.
[77] Mexico.
[78] Mexico.
[79] Thailand, United States.
[80] Australia.
[81] Malaysia.
[82] New Zealand.
[83] Australia, New Zealand, United States.
[84] Food and Agriculture Organization of the United Nations, *Report of the Technical Consultation on Sea Turtles Conservation and Fisheries, Bangkok, Thailand, 29 November-2 December 2004*, FAO Fisheries Report No. 765 (FIRM/R765(En)), appendix E.
[85] Order APA/1127/2002 of 13 May 2002.

NEAFC published scientific studies and research data that contained information on juvenile fish. The NEAFC scheme of control and enforcement had provisions that protected confidentiality of information for commercially sensitive data. RFMOs such as ICCAT, IPHC, NAFO, NEAFC and WCPFC encouraged research aimed at reducing or eliminating by-catch of juvenile fish and other unwanted catches.

144. In addition, GFCM, IATTC, ICCAT, NAFO, OLDEPESCA, SEAFO and WCPFC adopted conservation measures to protect sea turtles, consistent with the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.

**(c) Measures taken by relevant organizations**

**Activities undertaken by FAO**

145. FAO continued to promote the reduction of by-catch through its programme related to the impact of fishing on the environment, which encouraged the use of environmentally friendly fishing gear and selectivity techniques, particularly in the shrimp trawl sector. Its activities promoting the reduction of sea turtle by-catches in fishing operations were being carried out through a project on the interaction between sea turtles and fisheries within an ecosystem approach to fisheries management.

146. In order to address the issue of catch by lost and abandoned fishing gear, consideration was being given to reactivate the marking of fishing gear in the light of currently available technology, which would focus on the identification of the ownership of fishing gear the reporting of lost or abandoned gear and the technology for the retrieval of such gear. Standards that might be developed would reflect the principles reflected in the relevant annex to MARPOL.

147. In addition, FAO would continue to address post-harvested losses through improved handling of catch on-board and onshore, appropriate temperature controls, better preservation technology, improved utilization of fish waste, training in the implementation of hazard analysis and critical control points principles and the dissemination of technical documents.

**Activities undertaken by other relevant organizations and bodies**

148. UNDP-GEF large marine ecosystem projects reported taking measures to promote the reduction of by-catch and discards in fisheries in their respective regions of operations. The BCLME programme had funded projects and published work on the implementation of an ecosystem approach to fisheries management, including projects on the impact of longline fisheries on seabirds, pelagic and demersal sharks as well as measures to reduce such by-catch. The YSLME project had encouraged States to use and implement principles and guidelines currently available for reducing by-catch and discards, including the FAO Code of Conduct for Responsible Fisheries, eco-labelling systems and adoption of technical measures to minimize by-catch, and to develop institutional, legal and regulatory mechanisms for conserving endangered species and establishing a network of marine and coastal protected areas, in cooperation with relevant national and international institutions and groups. The Pacific Islands Ocean Fisheries Management project had assisted Pacific SIDS in implementing responsible oceanic fisheries management, including through the conservation and management of transboundary oceanic fisheries resources and the protection of biodiversity in the Pacific region. The IGCC Project

reported that as part of its strategic action programme, mechanisms were expected to be developed to reduce by-catch. A regional activity centre for fisheries management had been established in Angola and it was implementing by-catch excluder device trials and other gear selectivity studies to assist the countries in the region to better manage their fisheries.

### (d) Activities carried out by non-governmental organizations

149. MSC stressed that one of its principles and criteria for sustainable fisheries was that fishing operations had to allow for the maintenance and structure, productivity, function and diversity of the ecosystem on which the fishery depended. Accordingly, for a particular fishery to receive MSC certification, it needed to demonstrate that it was not having an unacceptable impact on species and habitats within the fishery area. The requirement encouraged all fisheries in the MSC programme or seeking certification to minimize by-catch, gear loss, discarding and post-harvest losses. As with sharks, incidental catch of seabirds and or sea turtles was taken into consideration when fisheries were being assessed against the MSC standard.

150. In addition, MSC had carried out activities aimed at increasing a broader awareness of the need to avoid adverse impacts of fishing on the marine ecosystem and promoting the MSC standard among various stakeholders.

## 4. Global moratorium on drift-net fishing

151. **Measures taken by States**. States (Australia, Canada, Congo, EC, Fiji, Kuwait, Latvia, Mexico, Morocco, Namibia, New Zealand, Nicaragua, Norway, Spain, Thailand, United States, Uruguay) that provided information on this issue stressed that they had prohibited the use of large-scale pelagic drift nets. In a further elaboration, New Zealand indicated that its 1991 Drift Net Prohibition Act prohibited nationals and fishing vessels flying its flag from carrying drift nets on board fishing vessels, transporting, trans-shipping or processing drift-net catch as well supplying drift-net vessels. The Act also contained provisions that denied entry to drift-net fishing vessels in its ports, and allowed boarding, inspection and seizure to ensure effective prohibition. The United States reported that it continued to take measures to prevent large-scale pelagic drift-net fishing on the high seas in the North Pacific and the Mediterranean, to ensure compliance with General Assembly resolution 46/215. In 2006, it continued cooperation with Canada, Japan, the Republic of Korea and the Russian Federation to prevent drift-net fishing for salmon in areas under the auspices of the North Pacific Anadromous Fish Commission. The United States and China were cooperating to ensure effective implementation of the large-scale pelagic drift-net fishing moratorium through the memorandum of understanding signed by the two parties in 1993.

152. **Activities carried out by non-governmental organizations.** The Humane Society International reported that following its monitoring of fishing activities around Italy's Ischia and Filicudi Islands region in 2006, in cooperation with other concerned non-governmental organizations, it was able to conclude that despite a buyout/conversion scheme and a 2002 EC regulation prohibiting drift-net fishing, there were still some Italian fishers who were clearly flaunting the EU ban.

# VI. International cooperation to promote sustainable fisheries

153. The obligation to cooperate at the subregional, regional or global level is the basis of the legal framework established under UNCLOS. That obligation runs throughout the provisions of UNCLOS and affects the rights and obligations of all States as well as the activities of relevant international organizations in the marine sector. In relation to the marine living resources of the high seas, UNCLOS requires States to cooperate directly or through RFMOs to ensure their conservation and management. Where no RFMO exists in a particular subregion or region, States are required to cooperate to establish one. In discharging their obligations to cooperate for the conservation of high seas marine living resources, States are also required to take into account the special requirements of developing States.

## A. Subregional and regional cooperation through regional fisheries management organizations and arrangements

### 1. Measures taken by States

#### Cooperation within existing regional organizations

154. Several States reported that they were members of RFMO/As that have a mandate to manage straddling fish stocks or highly migratory fish stocks, such as CCAMLR,[86] CCSBT,[87] GFCM,[88] IATTC,[89] ICCAT,[90] IOTC,[91] NAFO,[92] NEAFC,[93] SEAFO,[94] WCPFC[95] and the Convention for the Conservation of Pollock Resources in the Central Bering Sea.[96] In addition, Canada,[97] EC,[98] New Zealand,[99] United States,[100] and Uruguay[101] indicated they held the status of cooperating non-party or observer in RFMO/As of which they were not members or participants.

155. Uruguay planned to join SEAFO in the near future, while New Zealand and the United States indicated that they were not planning to seek membership within that organization, owing to the fact that no vessels flying their flags were currently fishing in areas under its management. With reference to SIOFA, Australia, EC and New Zealand stated that they had signed the SIOFA agreement in 2006. EC pointed out that it was in the process of launching the ratification procedure of the agreement. Both EC and New Zealand indicated that they were committed to implementing the interim measures agreed upon by SIOFA signatory States in 2006.

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[86] Australia, EC, Namibia, New Zealand, Norway, United States, Uruguay.
[87] Australia, New Zealand.
[88] EC, Morocco.
[89] Mexico, Peru, United States.
[90] Canada, EC, Ecuador, Morocco, Mexico, Namibia, Norway, United Status, Uruguay.
[91] Australia, EC, Malaysia, Thailand.
[92] Canada, EC, Norway, United States.
[93] EC, Norway.
[94] EC, Namibia, Norway.
[95] Australia, Canada, EC, Fiji, New Zealand. The United States is in the process of becoming a party.
[96] United States.
[97] IATTC, NEAFC.
[98] CCSBT.
[99] NEAFC.
[100] SEAFO.
[101] IOTC.

On the other hand, the United States did not expect to ratify the SIOFA agreement at the present time, since no vessels flying its flag were currently fishing in its convention area.

**Cooperation in the establishment of new regional organizations**

156. Australia, EC, Fiji, New Zealand and the United States reported that they were cooperating with Canada, Chile, China, Japan, Peru, the Republic of Korea and the Russian Federation to establish a new RFMO competent to manage non-tuna species in the South Pacific Ocean. Japan and the United States were also cooperating with the Republic of Korea and the Russian Federation to establish a conservation and management mechanism for high seas bottom fisheries in the north-western Pacific. States negotiating the South Pacific RFMO and the north-western Pacific mechanism advised that they had agreed in 2007 to implement interim conservation and management measures in the future regulatory areas, prior to the entry into force of their respective agreements. In addition, the United States reported that it had recently entered into negotiations with Canada to conclude agreements for the conservation and management of transboundary stocks of Pacific whiting (also known as Pacific hake) and North Pacific albacore tuna. EC reported also that it had been cooperating since 2001 with Chile and other parties under a multilateral arrangement to monitor the status of swordfish stocks in the South Pacific.

**Enhancing cooperation among regional organizations**

157. Several States provided information on the measures they had taken to enhance cooperation among existing and developing RFMO/As of which they were members or participants. Canada and the United States indicated that they strongly supported the coherence and coordination of conservation and management measures approved in different RFMOs, Norway particularly supported measures aimed at coordinating efforts to combat illegal, unreported and unregulated fishing. In that respect, the United States provided information to the effect that WCPFC had concluded memorandums of understanding (MOUs) with several adjacent and overlapping RFMOs, as well as with other regional bodies. States also reported that they had enhanced cooperation between RFMO/As by complying with the requirements established by different organizations[102] and by attending meetings convened by those organizations and arrangements, such as the Joint Meeting of Tuna RFMOs, held in Kobe, Japan, in January 2007, at which increased communication and coordination of measures among RFMOs was a key issue.[103] The meeting of a technical group endorsed by the Kobe meeting was expected to be hosted by the United States in mid-2007 and the next meeting of the joint tuna RFMOs will be held in Spain early in 2009.

**Enhancing the performance of regional organizations**

158. Australia, Canada, EC, Japan, New Zealand and the United States reported that they were in favour of performance reviews of RFMO/As and they had encouraged those organizations or arrangements of which they were members or participants to undergo such exercises. Indeed, for Australia, it was a matter of priority. The goal of the performance reviews was to assist RFMOs in improving their effectiveness and

[102] Namibia.

[103] Australia, Canada, EC, Japan, New Zealand.

efficiency in fulfilling their mandates. Australia indicated that for the joint meeting of tuna RFMOs it had developed jointly, with the United States and Japan, a paper on RFMO performance review for tuna RFMOs, in accordance with a common methodology and a common set of criteria. EC had initiated, in cooperation with other contracting parties, a review of both the IOTC and NAFO conventions in order to strengthen them and improve their efficiency. Canada had taken the lead in efforts to reform the NAFO convention and in pushing for a strengthening process in ICCAT. New Zealand stated that it was fully supportive of the performance reviews of CCSBT and WCPFC, which were currently under way, based on the outcome of the 2006 Review Conference of the United Nations Fish Stocks Agreement and the joint meeting of tuna RFMOs. Norway pointed out that it had initiated the NEAFC performance review conducted in 2006 on the basis of transparent criteria developed during the Review Conference of the United Nations Fish Stocks Agreement.

159. States also emphasized that performance reviews should be performed against objective criteria,[104] made publicly available,[105] and include an element of independent evaluation, and that the results should be made publicly available.[106] In that regard, EC and Norway emphasized that NEAFC's performance review, which involved the participation of internal and external experts, and was now completed, fulfilled those conditions.

160. In addition, a number of States were cooperating in the development of best practice guidelines to be applied in RFMO/As of which they were members or participants. Thailand participated in the formulation of best practices and responsible tuna fishing within IOTC, including guidelines for deterring illegal, unreported and unregulated fishing. Australia, Canada and New Zealand reported that they contributed to the work of the independent high-level panel process to document the best practice standard for a "model" RFMO. The United States noted that it had not been asked to participate in the development of best practices guidelines. It had, however, encouraged RFMO/As of which it was a member or participant to apply such best practices in their work. EC indicated that it participated in the 2007 joint meeting of tuna RFMOs during which contracting parties agreed on the following specific courses of action: (a) establishment of a global list of tuna vessels currently on the individual lists of RFMOs authorized to fish in their respective convention areas; (b) establishment of a global list of illegal, unreported and unregulated tuna vessels currently on the individual list of each tuna RFMO; (c) harmonization of trans-shipment measures; (d) standardization for the presentation of scientific advice; and (e) establishment of a system to monitor catches from vessels to markets.

161. In addition, some States reported that they had taken measures to contribute to the development of regional guidelines for adequate sanctions for non-compliance with fishery regulations by vessels flying their flags. EC and Norway were participating in a process within NAFO, regarding the implementation of enforcement measures, which could constitute the first step of a set of regional guidelines for sanctions. EC would consider a similar exercise in other RFMO/As in which it participated. The United States indicated that it fully supported the development of appropriate penalties for non-compliance in RFMO/As of which it

[104] Canada, United States.

[105] United States.

[106] Australia, Canada, EC, Malaysia, New Zealand, United States.

was a member or a participant. Latvia was actively participating in the Baltic Sea Regional Advisory Council within the framework of the common fisheries policy and EC legislation to implement enforcement measures for the Baltic Sea. Canada stressed that the international conference on high seas fisheries convened by Canada in 2005 had called for the establishment of regional guidelines for sanctions by States for non-compliance by vessels flying their flags and nationals that were sufficiently severe to effectively secure compliance, deter further violations and deprive offenders of the benefits accruing from their illegal activities.[107]

162. New Zealand indicated that WCPFC and CCSBT each had a compliance committee that was mandated to develop guidelines and standards for MCS and enforcement programmes. Sanctions for non-compliance were governed by the national legislation of the flag State and, where the offence took place in areas under national jurisdiction of a coastal State, by the national legislation of such a State. Within the context of RFMOs, the focus of compliance committees was to ensure that adequate MCS and enforcement regimes were in place and effectively implemented to provide the correct incentives to deter non-compliance. That would require cooperation between States to ensure that information on offenders could be effectively collected and investigated so that sanctions could be imposed by the flag State for violations of RFMO conservation and management measures. Reporting and review mechanisms existed within international arrangements that allowed for monitoring of the effectiveness of flag States' actions in such circumstances.

163. Australia pointed out that the 1991 Australian Fisheries Management Act contained stiff financial penalties for foreign fishing offences perpetrated in areas under its national jurisdiction. Information and technical advice on the Australian legislative framework and penalty system for illegal, unreported and unregulated fishing offences were provided to neighbouring developing States. Australia also applied a stringent management regime to vessels operating within its exclusive economic zone and on the high seas. Compliance system programmes were dependent upon the requirements for each fishery and involved a mixture of both surface and aerial surveillance, monitoring of unloads of catches in port, auditing of paper trails to determine catch landings and technical applications, such as VMS Domestic legislation made it an offence for vessels flying the flag of Australia to fish on the high seas without the appropriate authorization. Authorized vessels were also required to abide by specific technical regulations and, in general, expected to operate in a manner that would not contravene Australian obligations under international agreements and arrangements.

### 2. Measures adopted by regional fisheries management organizations and arrangements

#### Membership/participation of States with a real interest in RFMO/As

164. Most RFMO/As, including CPPS, GFCM, IATTC, ICCAT, NAFO, NASCO, SEAFO and WECAFC, that reported on the topic indicated that all States having a real interest in the fisheries under their management may become members of their organizations or participants in their arrangements, in accordance with the relevant provisions of the Agreement. WCPFC stated that its membership was open

[107] Ministerial Declaration of the "Conference on the Governance of High Seas Fisheries and the United Nations Fish Agreement — Moving from Words to Action", St. John's, Canada, from 1 to 5 May 2005.

originally only to States situated in the convention area, but other States may be invited to join by the organization. NEAFC pointed out that fishing opportunities for new members were limited to new stocks that had not yet been allocated, owing to the fact that regulated fisheries were fully allocated between current members.[108] However, NEAFC and WCPFC indicated that non-members could be granted cooperating non-contracting party status, which would allow them to have access to cooperative quotas.

**Modernization of regional fisheries management organizations and arrangements**

165. Many reporting RFMO/As indicated that they had taken steps to implement modern approaches and tools contained in new international fishery instruments with a view to strengthening their mandates and functions. They included increased reliance on scientific information,[109] application of the precautionary approach[110] and ecosystem approaches and biodiversity considerations,[111] and ensuring that mandates and regulatory measures were effectively contributing to the long-term conservation, management and sustainable use of marine living resources.[112]

**Transparency in the management of regional fisheries management organizations and arrangements**

166. Several RFMO/As have taken measures to improve transparency in their conservation and management regimes. Such measures related to transparency of their decision-making processes,[113] relying on the best scientific information available,[114] incorporating the precautionary approach and ecosystem approaches[115] and addressing participatory rights, including through the development of transparent criteria for allocating fishing opportunities[116] that reflect the relevant provisions of the Agreement. WCPFC was currently developing its allocation criteria. GFCM, ICCAT, NAFO, NASCO, NEAFC, SEAFO and WCPFC indicated that their meetings were open to observers. Of those, GFCM, ICCAT, NAFO and WCPFC reported that all adopted conservation and measures were publicly available on their websites.

**Strengthening cooperation among other regional fisheries management organizations and arrangements and with other relevant international organizations**

167. Many RFMO/As that provided information on the subject reported that they were cooperating with other regional fisheries management organizations and

[108] *Guidelines for the Expectation of Future new Contracting Parties with regard to fishing opportunities in the NEAFC Regulatory Area* (Doc. AM 2003/45).
[109] CPPS, GFCM, IATTC, ICCAT, IPHC, NAFO, NASCO, NEAFC, SEAFO, WCPFC.
[110] CPPS, GFCM, IATTC, IPHC, NAFO, NASCO, NEAFC, SEAFO, WCPFC.
[111] CPPS, GFCM, IATTC, ICCAT, IPHC, NAFO, NASCO, NEAFC, SEAFO, WCPFC.
[112] CPPS, GFCM, IATTC, ICCAT, IPHC, NAFO.
[113] CPPS, GFCM, ICCAT, IPHC, SEAFO.
[114] ICCAT, SEAFO.
[115] GFCM, NAFO, NEAFC, SEAFO
[116] ICCAT, GFCM, NAFO, SEAFO.

arrangements on issues of mutual interest[117] as well as with other relevant international organizations.[118]

## B. International cooperation to enhance capacity-building

168. The international community recognizes the importance of providing assistance to developing States to build their capacity for the conservation and sustainable use of fisheries resources in areas within and beyond national jurisdiction. Assistance should focus on increasing the ability of the fishing sector in developing countries, particularly small-scale fisheries, to contribute to poverty alleviation and food security, enhancing economic returns from fishing activities conducted in areas under their national jurisdiction by distant-water fishing nations under access agreements, building capacity for MCS and enforcement capabilities to combat illegal, unreported and unregulated fishing and increasing capacity of developing States to develop their own fisheries in areas under national jurisdiction and on the high seas managed by RFMO/As.

### 1. Areas of assistance to developing States

169. Australia, EC, New Zealand, Norway and the United States provided details of their assistance to developing States in the fishing sector, including small-scale fisheries (see also A/CONF.210/2006/1, paras. 295-300, and A/60/189, paras. 146-151). Assistance may be in the form of financial aid on a bilateral or regional basis, funding for national or regional initiatives or funding for international assistance funds. Direct forms of assistance to developing States include providing technical assistance, capacity-building and training and research projects.

#### Assistance to fishers, in particular small-scale fishers

170. Australia and EC indicated that assistance targeted at small-scale fisheries in developing countries was part of their programmes of assistance. New Zealand stated that its assistance to the Pacific Islands included advice on effective representation of the views of small-scale and other fishers in fisheries management.

#### Enhancement of opportunities for sustainable development, development of fisheries and participation in high seas fisheries

171. As a distant-water fishing nation, Spain reported on its training and financial and technical assistance to developing countries in Africa and made a note of its contribution to the establishment of the Ibero-American Network of Marine Reserves, which manages 32 MPAs. New Zealand referred to its support through the Forum Fisheries Agency for the development of fisheries and participation in high seas fisheries by developing countries in the Pacific.

#### Access agreements or arrangements negotiated by distant-water fishing nations with developing coastal States

172. EC reported that, under its fisheries partnership agreements, it was promoting scientific and technical cooperation with developing countries, including in relation

[117] CPPS, GFCM, IATTC, ICCAT, IPHC, NAFO, NASCO, NEAFC, OLDEPESCA, SEAFO, WCPFC.
[118] APFIC, GFCM, ICCAT, IPHC, NAFO, NEAFC, SEAFO.

to fishing techniques and gear, preservation methods and industrial processing of fisheries products. Assistance was also being provided by EC for capacity-building in the area of fishery control and enforcement.

**Greater assistance and promotion of coherence in assistance for developing States regarding conservation and management of fish stocks**

173. New Zealand reported that its capacity development programmes were consistent with the principles of the Paris Declaration for Aid Effectiveness and the FAO Strategic Framework for Human Capacity Development in Fisheries.[119] It provided assistance through Pacific regional agencies and through RFMOs. EC reported that it was committed to ensuring that its policies, in particular its CFP as reformed in 2002 and its development policy, were complementary, so as to enable developing States to build fishing capacity while preserving sustainability of the fisheries resources. EC fisheries partnership agreements, which promoted sustainable development of the fisheries sector in partner countries, included mechanisms for assessments and monitoring of fisheries resources. In addition, it was launching an action plan to improve the quality and availability of scientific advice concerning fish stocks in non-EU countries.

174. The United States stated that it continued to work bilaterally and multilaterally to expand the use of circle hooks to reduce by-catch and by-catch mortality in longline fisheries. It also conducted workshops throughout Central America to strengthen regulatory mechanisms for enforcement. Further, it contributed to the ICCAT data fund, which assisted developing States with respect to participation in scientific meetings and improvement in their data collection. The United States indicated that it would continue to provide technical assistance on turtle excluder devices to countries wishing to pursue sea turtle conservation programmes.

## 2. Assistance under the United Nations Fish Stocks Agreement

**Assistance under Part VII of the Agreement**

175. Australia, EC, New Zealand, Norway and the United States provided details of their assistance to developing States (see also A/CONF.210/2006/1, paras. 295-300, and A/60/189, paras. 146-151). The area of MCS was the focus of much assistance to developing States (Australia, EC, New Zealand, Norway). A key part of the enhancement of the international MCS Network (involving Australia, Canada, New Zealand, the United Kingdom and the United States) was the delivery of expertise and training to developing States. Australia had established the Pacific Patrol Boat programme to build up the maritime surveillance capacity of Pacific Island countries.

176. Australia reported that it provided various forms of aid and assistance to Indonesia, including training in fisheries management, promotion of capacity-building in the area of fisheries compliance and monitoring the catch of southern bluefin tuna. Research projects relating to fisheries were being funded by Australia, including in Papua New Guinea and the Pacific islands, some of which focus on aquaculture research.

[119] FAO document COFI/2005/Inf.11.

**Promotion of further ratification of, or accession to, the Agreement through the Assistance Fund**

177. Australia, Canada, New Zealand and the United States indicated that they encouraged ratification of or accession to the Agreement in bilateral and multilateral forums. However, it was not sufficient for States to merely ratify the Agreement; they must also have the capacity to implement its provisions. Canada stated that the Assistance Fund under Part VII may assist developing States in acquiring such capacity. New Zealand indicated that it worked with other States to identify and resolve impediments to accession to the Agreement. It also advocated the inclusion of managed funds within regional processes to support the participation and capacity development of developing States. EC indicated that it supported a dialogue between States parties and non-parties to promote adherence to the Agreement.

**Status of the Assistance Fund**

178. Pursuant to paragraph 21 of the Terms of Reference of the Fund, FAO provided a financial report on the status of the Assistance Fund as at 31 December 2006 (see annex IV). The report stated that the total of the contributions to the Fund,[120] together with interest, amounted to $433,383. Of the total expenditure of $68,787 in 2006, 99 per cent was used to support attendance at meetings by representatives of developing States parties. The remaining portion was used to meet FAO administrative expenses.

179. As to measures to publicize further the Fund, FAO reported that it had informed eligible countries of its availability through meetings and direct contact with secretariats of regional fishery bodies.

180. The Division for Ocean Affairs and the Law of the Sea also advised States that information regarding the Fund was now available in French on the Division's website and encouraged developing States to avail themselves of the Fund. It further invited developing States to provide comments regarding the application and award procedures of the Fund.

**3. Assistance provided by relevant organizations**

**Activities carried out by the Food and Agriculture Organization of the United Nations**

181. In relation to assistance to fishers, in particular small-scale fishers, FAO reported that it was developing training materials and policy-guidance documents on small-scale fisheries for use by Government agencies and civil society groups. It advised on the development of fisheries sector strategies in various countries and the work included the long-term sustainable rehabilitation of fishing communities affected by the December 2004 tsunami. FAO was involved in projects that aimed to reduce the risks to life and property faced by small-scale fisheries owing to hazards at sea and environmental disasters. In addition, FAO promoted responsible and cost-efficient small-scale fishing technologies and, to that end, was conducting case studies on beach seining. Further, FAO was promoting the exchange of information

[120] The contributors as at 31 December 2006 were Canada ($64,230), Iceland ($50,000), Norway ($95,475), and United States ($200,000). In April 2007, Canada contributed the sum of Can$ 425,000.

on microenterprise development in fishing communities among small-scale fisher organizations and other interested entities.

182. FAO reported that its FishCode Programme served as the principal means through which it supported the implementation of the Code of Conduct and related instruments. Some of the capacity-building activities for developing countries planned for 2007 included the delivery of training courses through the FishCode custom training courses project, covering the themes of co-management, fishing vessel stability, profitability of aquaculture enterprises and fisheries policy and planning. A series of regional capacity-building workshops in developing countries have been planned to promote the implementation of port State measures to combat illegal, unreported and unregulated fishing. The FishCode-STF project, which facilitated implementation of the 2003 FAO Strategy for Improving Information on Status and Trends of Capture Fisheries, paid particular attention to capacity-building and regional cooperation and was initiating activities in West Africa. The FishCode Programme was also launching new activities to enhance stakeholder and fishery manager awareness of eco-labelling schemes. The objective was to promote the fair and profitable participation by developing country stakeholders in international markets.

**Activities carried out by other relevant organizations and bodies**

183. Two UNDP/GEF projects outlined assistance they had provided to developing countries in relation to fisheries.[121] Under GCLME, fishery resource surveys had been conducted in collaboration with FAO and subregional training workshops were held on the management of shared stocks, fisheries access agreements, alternative livelihoods in small-scale fisheries and other topics. Under the South Pacific Forum Fisheries Agency Pacific Islands Oceanic Fisheries Management Project, support was provided to Pacific SIDS to ensure that their national laws and policies for conservation and management of fisheries were in accordance with the measures of WCPFC and other applicable global and regional instruments, and to ensure that Pacific SIDS took a leading role in the functioning and management of WCPFC. Assistance was also provided to improve the capacity of Pacific SIDS in the scientific assessment and monitoring of fisheries and ecosystems.

## C. Cooperation and coordination within the United Nations system

184. In paragraph 103 of its resolution 61/105, the General Assembly requested the relevant parts of the United Nations system, international financial institutions and donor agencies to support increased enforcement and compliance capabilities for RFMOs and their member States. In that regard, FAO provided many forms of technical and administrative support to RFMOs and their members to strengthen their compliance capabilities, and also provided a venue and a coordinating function for the biennial meetings of regional fisheries bodies.

185. FAO stated that its technical consultations, held in 2004, highlighted the important role that RFMOs play in combating illegal, unreported and unregulated fishing and the need for greater regional cooperation and networking among

[121] See also, A/60/189, para. 151, for a description of two other large marine ecosystem projects of UNDP-GEF: SCLME and YSLME.

RFMOs. FAO also sponsored a number of regional workshops to assist its members to develop national plans of action to combat illegal, unreported and unregulated fishing, as called for in IPOA-IUU.

186. In 2005, FAO established two interdepartmental working groups with significant mandates for RFMOs. The working group on regional commissions assessed the functioning of regional statutory bodies and proposed ways to strengthen them. The second working group on international treaties and conventions reviewed aspects of FAO treaties and conventions. FAO also contributed experienced staff to assist as RFMOs move towards performance evaluation and assessment.

187. In addition, FAO was working closely with RFMOs to develop operational expertise on compliance. In October 2006, FAO hosted an Expert Consultation on the Use of Vessel Monitoring Systems and Satellites for Fisheries Monitoring Control and Surveillance.[122] In addition, representatives from RFMO secretariats were invited to the second meeting of the joint FAO/IMO ad hoc working group on illegal, unreported and unregulated fishing and related matters, in July 2007.

188. FAO had also scheduled a series of workshops on port State capacity-building for fisheries policy and monitoring, control and surveillance personnel that would be delivered in close cooperation with regional fisheries bodies. The first workshop was held in the Pacific islands in August 2006 in collaboration with the Pacific Islands Forum Fisheries Agency and WCPFC. The second workshop was held in June 2007 in Mauritius, immediately following a three-day international symposium on illegal, unreported and unregulated fishing, which had been organized by the Indian Ocean Commission, in partnership with FAO, IOTC and the Southwest Indian Ocean Fisheries Commission. Workshops for other regions were planned.

189. The Division for Ocean Affairs and the Law of the Sea was cooperating with FAO on issues of common interest concerning the legal and policy framework relevant to enforcement and compliance. Of particular relevance was the cooperation between FAO and the Division in the administration of the Assistance Fund under the United Nations Fish Stocks Agreement. The Division also attended FAO meetings related to enforcement and compliance, including the Expert Consultation on the Use of Vessel Monitoring Systems and Satellites for Fisheries Monitoring, Control and Surveillance, and the second joint FAO/IMO ad hoc working group on illegal, unreported and unregulated fishing and related matters. FAO regularly participated in the informal consultations of States parties to the United Nations Fish Stocks Agreement and the meetings of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea, hosted by the Division, and continued to provide information within its area of competence for the annual reports of the Secretary-General on oceans and law of the sea and on sustainable fisheries. UNEP and UNDP also provided inputs to the reports of the Secretary-General on supporting increased enforcement and compliance capabilities.

190. In collaboration with the FAO and International Labour Organization, IMO had developed a number of non-mandatory instruments, including the "Document for Guidance on Fishermen's Training and Certification", the revised "Code of

[122] FAO Fisheries Report No. 815, available at: http://www.fao.org/fi/shared/nemstrans.jsp?event_id=36254&xp_lang=en.

Safety for Fishermen and Fishing Vessels, 2005", and the "Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels, 2005".

191. In terms of priorities for cooperation and coordination in the implementation of the FAO international plans of action, as invited in paragraph 104 of resolution 61/105, FAO indicated that it welcomed cooperation with United Nations agencies in the implementation of IPOA-IUU. To date, such collaboration had been limited, apart from the provision of information about IPOA-IUU and progress with its implementation. Priorities for such cooperation would focus initially on the development of NPOAs to combat illegal, unreported and unregulated fishing and, in turn, their implementation. As regards implementation of IPOA-Capacity, close collaboration had been established with the World Bank for work on the issue of capacity management and reduction.

192. In paragraph 105 of resolution 61/105, the General Assembly also invited the Division for Ocean Affairs and the Law of the Sea, FAO and other relevant bodies of the United Nations system to consult and cooperate in the preparation of questionnaires designed to collect information on sustainable fisheries, in order to avoid duplication. In that regard, FAO indicated that the main area of potential overlap in reporting concerned the FAO biennial questionnaire with respect to the implementation of its Code of Conduct. Although the general issue of reporting had been raised at recent Committee on Fisheries meetings, including the heavy reporting burden faced by some countries, the issue of duplication in reporting had not been raised. FAO noted that it collected very specific and technical information in its questionnaire relating to the implementation of the Code, and that there was also a need to maintain a time-series approach in the information collected. It did not consider that there was major duplication with the information it collected, compared to the information collected by other United Nations agencies, and indicated that any effort to coordinate the collection of information on the implementation of the Code with the information requirements of other United Nations agencies would likely prejudice the quality and nature of the information collected.

193. In that context, UNEP indicated that the ideal was for RFMOs, national fisheries ministries, research institutions or individual fisheries managers to receive one questionnaire from the United Nations system requesting information regarding sustainable fisheries, and suggested that a peer-review network should be created for the design of further surveys to collect information on sustainable fisheries. Such a network could also generate opportunities for collaboration within the United Nations system, extend existing work or further reduce duplication of work. The UNDP-GEF large marine ecosystem projects also supported a single questionnaire and inter-agency consultation and joint action.

## VII. Concluding remarks

194. Information provided by States, RFMOs and relevant organizations and bodies indicates that there is a genuine effort by the international community to achieve sustainable fisheries, despite the fact that unsustainable fishing practices continue to occur in some areas of the world's oceans and seas.

195. In order to achieve sustainable fisheries, the international community should encourage States to become party to, and to implement, all international fisheries

instruments providing for the conservation and sustainable use of fishery resources, including those instruments providing for the strengthening of flag States duties and the implementation of port States measures and other MCS tools, in order to address unsustainable fishing practices, in particular, overfishing and illegal, unreported and unregulated fishing.

196. Further efforts should be made to minimize the impacts of fishing activities on the marine ecosystem, including through the elimination of destructive fishing practices and the adoption of measures to conserve marine biodiversity and protect vulnerable marine ecosystems, with a view to promoting responsible fisheries in the marine ecosystem. States should also commit themselves to implementing modern fisheries management tools, in particular the precautionary approach and an ecosystem approach; enhance scientific research; improve data collection, exchange and reporting; and increase reliance on scientific advice in management decisions.

197. In addition, RFMO/As should strengthen their mandates and functions by undergoing performance reviews to assess their effectiveness in ensuring the conservation, management and sustainable use of the fishery resource under their protection. New RFMO/As with modernized mandates and functions should be established where none exist and they should be open to all States with a real interest in the fisheries.

198. Finally, the international community should give full recognition to the special requirements of developing States in relation to the conservation and management of straddling fish stocks and highly migratory fish stocks. Financial and technical assistance should be provided to enhance their capacity to conserve and manage fisheries in areas under national jurisdiction, with particular attention to small-scale fisheries, in view of their contribution to food security and poverty alleviation. Such assistance should be targeted in areas such as stock assessment, data collection and reporting, MCS, port State measures, market and trade-related requirements, health and quality standards and human resource development. Assistance should also be provided to enhance the participation of developing countries in RFMOs, including through facilitating their access to fisheries for straddling fish stocks and highly migratory fish stocks, in accordance with article 25 (1) (b) of the Agreement.

# Annex I

## List of respondents to the questionnaires

### States and entities

Australia
Canada
Congo
Czech Republic
Ecuador
European Community
Fiji
Iraq
Jamaica
Japan
Kuwait
Latvia
Malaysia
Mexico
Morocco
Namibia
New Zealand
Nicaragua
Norway
Peru
Qatar
Spain
Suriname
Thailand
United States
Uruguay

### United Nations agencies, programmes and funds and related organizations

FAO
ICES
IMO
UNDP/GEF projects (BCLME, GCLME, Pacific Islands Ocean Fisheries Management and YSLME)
UNEP
WTO

### Other intergovernmental organizations

Organization for Economic Cooperation and Development

## Regional fisheries management organizations and arrangements

APFIC
CPPS
GFCM
IATTC
ICCAT
IPHC
NAFO
NASCO
NEAFC
OLDEPESCA
SEAFO
WCPFC
WECAFC

## Non-governmental organizations

Humane Society International
International Ocean Institute
Marine Stewardship Council

# Annex II

## List of parties to the United Nations Fish Stocks Agreement (as at 31 July 2007)

Australia
Austria
Bahamas
Barbados
Belgium
Belize
Brazil
Bulgaria
Canada
Cook Islands
Costa Rica
Cyprus
Czech Republic
Denmark
Estonia
European Community
Fiji
Finland
France
Germany
Greece
Guinea
Iceland
India
Iran (Islamic Republic of)
Ireland
Italy
Japan
Kenya
Kiribati
Latvia
Liberia
Lithuania
Luxembourg
Maldives
Malta
Marshall Islands
Mauritius
Micronesia (Federated States of)
Monaco
Namibia
Nauru
Netherlands
New Zealand
Niue

Norway
Papua New Guinea
Poland
Portugal
Romania[a]
Russian Federation
Saint Lucia
Samoa
Senegal
Seychelles
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Sweden
Tonga
Trinidad and Tobago
Ukraine
United Kingdom of Great Britain and Northern Ireland
United States of America
Uruguay

[a] Romania acceded to the Agreement on 16 July 2007.

# Annex III

## List of parties to the Compliance Agreement of the Food and Agriculture Organization of the United Nations (as at 31 July 2007)

Albania
Angola
Argentina
Australia
Barbados
Belize
Benin
Canada
Cape Verde
Chile
Cook Islands
Cyprus
Egypt
European Community
Georgia
Ghana
Japan
Madagascar
Mauritius
Mexico
Morocco
Myanmar
Namibia
New Zealand
Norway
Peru
Republic of Korea
Saint Kitts and Nevis
Saint Lucia
Seychelles
Sweden
Syrian Arab Republic
United Republic of Tanzania
United States of America
Uruguay

# Annex IV

## Financial report of the Food and Agriculture Organization of the United Nations on the status of the Assistance Fund under Part VII of the United Nations Fish Stocks Agreement*

### 1. Introduction

In November 2003, the United Nations General Assembly, in its resolution 58/14, established an Assistance Fund under Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995 United Nations Fish Stocks Agreement), to assist developing States Parties in the implementation of the Agreement. It also decided that the Fund would be administered by the Food and Agriculture Organization of the United Nations (FAO). On 19 April 2005, the Fund was set up.[a] It is managed in accordance with the Fund's Terms of Reference and FAO financial regulations, as well as other applicable rules.

### 2. Contributions to the Assistance Fund

The United Nations and FAO have made calls for contributions to the Assistance Fund at international forums, including sessions of the General Assembly and the FAO Committee on Fisheries, as well as on the Assistance Fund's website.[b]

As at 31 December 2006, the Governments of Canada, Iceland, Norway and the United States of America, all States parties to the 1995 United Nations Fish Stocks Agreement, had made financial contributions to the Assistance Fund, totalling US$ 409,705. Table 1 shows contributions to the Fund together with accrued interest on the funds.

States, intergovernmental organizations, international financial institutions, national institutions, non-governmental organizations and natural and juridical persons wishing to make contributions to the Assistance Fund are encouraged to do so and they should direct their payments to the following FAO bank account:

| | |
|---|---|
| Bank: | HSBC New York |
| Address: | 452 Fifth Ave.<br>New York, NY, USA, 10018 |
| Account Number: | 000156426 |
| Swift/BIC: | MRMDUS33 |
| ABA/Bank Code: | 021001088 |
| Citing project: | MFT/GLO/124/MUL |

* The present report is provided in accordance with paragraph 21 of the Terms of Reference for the Assistance Fund under Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

[a] Account MTF/GLO/124/MUL 1995 United Nations Fish Stocks Agreement — Part VII — Trust Fund.

[b] http://www.un.org/Depts/los/convention_agreements/fishstocktrustfund/fishstocktrustfund.htm. Contributions to the Fund should be made to the trust fund established by FAO in accordance with paragraph 7 of the Terms of Reference of the Fund.

## 3. Requests for Assistance from the Fund

Despite the wide dissemination of information about the existence and purpose of the Assistance Fund by the United Nations and FAO, including through electronic means and direct contacts with relevant regional fisheries bodies, there have been limited requests for assistance from the Fund. Table 2 provides details of expenditure from the Fund as at 31 December 2006. They are categorized according to the purposes for which they are permitted and administrative expenses, as reflected, respectively, in paragraphs 14 and 20 of the Fund's Terms of Reference.

In 2006, a total expenditure of $68,787 was made, 99 per cent of which was used to support attendance at meetings by representatives from States parties to the 1995 United Nations Fish Stocks Agreement. Of the total expenditure for meeting participation, 69 per cent was devoted to support participation at the Review Conference of the 1995 United Nations Fish Stocks Agreement; 13 per cent for scientific meetings and the annual session of the South-East Atlantic Fisheries Organization; 12 per cent for the annual session of the Western and Central Pacific Fisheries Commission and 5 per cent for the annual session of the Commission for the Conservation of Antarctic Marine Living Resources.

## 4. Conclusion

The Assistance Fund was established, and is being managed, in accordance with its Terms of Reference and FAO financial regulations and other applicable rules.

The United Nations and FAO encourage States, intergovernmental organizations, international financial institutions, national institutions, non-governmental organizations and natural and juridical persons to make voluntary financial contributions to the Fund. The United Nations and FAO seeks to ensure that the Assistance Fund maintains a healthy level of funds so that support for the implementation of the 1995 United Nations Fish Stocks Agreement can be sustained.

Despite efforts to publicize the purpose and intent of the Fund by the United Nations and FAO, attention is drawn to the limited number of requests for assistance by States parties to the 1995 United Nations Fish Stocks Agreement. Both the United Nations and FAO will continue their efforts to promulgate information about the Assistance Fund through all appropriate means.

Table 1
**1995 United Nations Fish Stocks Agreement Part VII Trust Fund: Income account as at 31 December 2006**
(United States dollars)

| *Donor* | *2004* | *2005* | *2006* | *Total plus interest* |
|---|---|---|---|---|
| United States | 200 000[a] | — | — | 200 000 |
| Iceland | — | 50 000[b] | — | 50 000 |
| Norway | — | 95 475[c] | — | 95 475 |
| Canada | — | — | 64 230[d] | 64 230 |
| Accrued interest on funds | 2 705 | 6 248 | 14 725 | 23 678 |
| **Total** | **202 705** | **151 723** | **78 955** | **433 383** |

*Note*: Some figures revised from the 2005 financial report.
[a] June 2004.
[b] April 2005.
[c] May 2005.
[d] March 2006

Table 2
**1995 United Nations Fish Stocks Agreement Part VII Trust Fund: Expenditure account as at 31 December 2006**

| | | *2004* | | *2005* | | *2006* | | *Total* | |
|---|---|---|---|---|---|---|---|---|---|
| *TOR*[a] | *Category* | *United States dollars* | *Percentage* | *United States dollars* | *Percentage* | *United States dollars* | *Percentage* | *United States dollars* | *Percentage* |
| 14 a-b | Travel expenses for meeting participation | — | — | — | — | 67 920 | 99 | 67 920 | 99 |
| 14 c | Establishment of new RFMO/As | — | — | — | — | — | — | — | — |
| 14 d . | Building capacity | — | — | — | — | — | — | — | — |
| 14 e | Exchange of information | — | — | — | — | — | — | — | — |
| 14 f | Conservation and management assistance | — | — | — | — | — | — | — | — |
| 14 g | Dispute settlement | — | — | — | — | — | — | — | — |
| 20 | FAO administrative expenses | — | — | — | — | 867 | 1 | 867 | 1 |
| **Total** | | | **0** | | **0** | **68 787** | **100** | **68 787** | **100** |

*Note*: Some figures may be subject to revision.
*Abbreviations*: TOR, Terms of Reference; RFMO/As, Regional fisheries management organizations/arrangements; FAO, Food and Agriculture Organization of the United Nations.
[a] References are to the relevant paragraphs of the Terms of Reference for the Assistance Fund under Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.